

**EFFECTS OF ADULT ENTERTAINMENT BUSINESSES  
ON RESIDENTIAL NEIGHBORHOODS**

**Prepared for**

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## **INTRODUCTION**

During the past ten years, El Paso has experienced significant growth in the number and variety of adult entertainment businesses located within its jurisdiction. As of June 1986, there were approximately three (3) adult motion picture theatres, seven (7) adult motion picture theatres/bookstores and twenty-three (23) nude live entertainment clubs. (See Appendix I). The proliferation of these businesses has resulted in numerous community requests for regulation by the City of El Paso. Concern in adult entertainment businesses is increasing nationwide as residents face what they have asserted to be an adverse physical, social, and economic impact on their community.

Reasonable regulations are being used to control adult entertainment businesses proximity to residential areas, churches, parks, schools, and other public facilities. Recent court cases conclude that the regulation of adult entertainment businesses is important to protect property values and a community's quality of life. Zoning restrictions, when used to preserve the character of specific areas in the city, have perhaps been the most effective tool used by local governments to achieve this goal. The necessary reasoning for regulating adult entertainment businesses by zoning is that a land use relationship or impact results from this form of business.

Because of their increasing importance to the public welfare of the community, the Department of Planning, Research and Development, with the assistance of the City Attorney's office, the Police Department Data Processing Division, and New Mexico State University, has spent over a year studying the impacts that adult entertainment businesses have on their surrounding environment. For the purpose of this study, the term "adult entertainment business" is a general term used to designate businesses which primarily feature sexually stimulating material and/or performances. These include adult bookstores, adult cabarets, adult drive-in theatres, adult motion picture theatres and arcades, nude live entertainment clubs, nude adult service establishments.

The study was undertaken to examine what, if any, negative impacts were created by these uses to the social and land use characteristics of the area in which they are located. Additionally, the study examined the factors of crime incidence to show the deviation from normal rates for this population. Analyses of land use characteristics were made to show any negative performance of the real estate market in areas where adult entertainment is offered. While the study should not be construed as proving that adult entertainment businesses are the causal effect of these negative impacts, the study will show that these uses are an important variable in each instance of comparison.

## **LEGAL BASIS FOR LAND USE CONTROL**

Zoning has traditionally been defined as a process by which a municipality legally controls the use which may be made of property and the physical configuration of the

development upon tracts of land within its jurisdiction. This is accomplished by means of zoning ordinances which are locally adopted to divide the city into different districts permitting only certain uses within each district. Zoning regulations not only restrict the use to which buildings or property may be put within designated districts, but also the purpose or object of the use beyond the mere conditions or circumstances of the use.<sup>1</sup>

While the courts have affirmed that municipalities are properly exercising their police power through zoning regulation, it is generally held that such power is delegated to them by the state legislature through statutory enactment. In the State of Texas, Article 1175 of Vernon's Annotated Statutes provides for the city's zoning enabling legislation. Limitations on the exercise of zoning power are essentially the same as those restricting a police power under the U.S. Constitution. It may not be exercised in an unreasonable, oppressive, arbitrary, or discriminatory manner. Zoning laws must have a real, substantive relation to the governmental objective for the protection of the public health, safety, morals and general welfare of citizens.

Section 25-3, entitled Purpose, of the El Paso Zoning Ordinance reads: "Zoning regulations and districts are established for the purpose of promoting health, safety, morals, and the general welfare of the City. They have been made with reasonable consideration, and with a view to conserving the value of buildings and encouraging the most appropriate use of the land throughout the City." The public welfare, in this context, means the stabilization of property values, promotion of desirable home surroundings, and the orderly growth of the community. When employing the zoning power to regulate adult entertainment businesses, the courts have held that the following must be shown. First, that the adoptive ordinance must be motivated and founded on sound land use principles, and secondly, that it allow reasonable accommodations for such uses in its jurisdiction.

Both the nature and regulation of the use must be clearly defined in order to avoid the need for subjective interpretation of each proposed use.

## **STUDY FORMAT**

### **Methods Used**

Many zoning ordinances throughout the nation now have provisions for adult entertainment businesses based on one of two basic approaches to control the location of these uses. One approach, commonly called the Detroit Model, divides or prevents the concentration of adult entertainment businesses in one area. El Paso's adult entertainment business regulation is patterned after the Detroit Model. The second approach, or the Boston Model, concentrates the adult entertainment businesses in one area of the city.

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<sup>1</sup>Of Lombardo v. City of Dallas, 47 SW2d 495 (Texas Civil Appeals, Dallas, 1932), aff'd, 124 Tex. 1, 73 Sw2d 475 (1934).

The El Paso Ordinance is based on two hypotheses: first, that there are direct impacts which uniquely relate to this class of land use; and second, that there are indirect, but equally important, attitudinal concerns which result from proximity to an adult entertainment business. Examples of the former are possible traffic congestion, unusual hours of operation, litter, noise, and criminal activity.

The study methodology employs a comparison of different land areas in El Paso. The two basic areas of comparison are study areas and control areas. They are distinguished by the existence of adult entertainment businesses within their boundary (the study area) or the absence thereof (the control area). In choosing study areas as well as control areas, the determinant characteristics were zoning mix, population size, age of housing stock, and family income. The selection process was additionally based on the number of establishments located in a given neighborhood. In each case, adult entertainment businesses were operating during the time span of the study.

There were at least nineteen possible distinct sites in El Paso where adult entertainment was offered either singly or in clusters of establishments as seen in Figure 1. For purposes of this study, it was decided to select three of these sites that were representative and three control areas with no adult business. A control area had similar characteristics of a matched study area in terms of land use.

## **FIGURE 1**

### **Adult Entertainment Business Locations – Citywide**

#### **Defining Boundaries**

The process of defining the study area boundaries was conducted in the following manner. First, locations of adult entertainment businesses in El Paso were plotted. Secondly, the primary concentration of adult entertainment businesses were identified. Thirdly, a preliminary decision was made to select three study areas based on concentration and geographic isolation from each other. Finally, the boundary of each study area was established so that each was approximately centered and had an area of one-quarter (1/4) mile.

In defining the control area boundaries, first the potential control areas were identified based on the absence of adult entertainment businesses. Secondly, possible control areas were delineated in equal size to the study areas. Thirdly, the population and land use characteristics of each possible control area was determined using the same method used for the study areas. Finally, a control area was selected to match each study area as closely as possible in size, number of residents, and all other land use characteristics.

## LAND USE CHARACTERISTICS FOR STUDY SITE LOCATIONS

### Demographics

Table 1 identifies the percentage of land use for the study and control areas. The percent distribution by race of the population for each area and the family median income is found in Table 2. As can be seen, the areas chosen for the study and control areas have been weighted proportionally using the land use and population characteristics. A more detailed land use for the areas may be found in Appendix III to VIII.

**TABLE 1**

**Percentage of Land Use  
(As of August, 1986)**

	<u>Study Area One</u>	<u>Control Area One</u>	<u>Study Area Two</u>	<u>Control Area Two</u>	<u>Study Area Three</u>	<u>Control Area Three</u>
Residential*	.74	.72	.71	.72	.81	.90
Commercial**	.19	.24	.11	.12	.16	.09
Industrial***	.00	.00	.00	.00	.00	.00
Other****	<u>.07</u>	<u>.04</u>	<u>.18</u>	<u>.16</u>	<u>.03</u>	<u>.01</u>
	1.00	1.00	1.00	1.00	1.00	1.00

**Notes:**

\*Includes Real Estate Codes A1, A2, A3, A4, A6, B1, B2, B3, C1, H1

\*\*Includes Real Estate Codes C4, F1, F3, F4, F5, F6, F8, F9, F10, C2, F7, I1

\*\*\*Includes Real Estate Codes F2, G1

\*\*\*\*Includes Real Estate Codes C5, C6, D1, D2, D3, D4, D5, E1, E2, C3, Y9, Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z9

**TABLE 2**

**Population Characteristics  
(As of June 1986)**

	<u>Study Area One</u>	<u>Control Area One</u>	<u>Study Area Two</u>	<u>Control Area Two</u>	<u>Study Area Three</u>	<u>Control Area Three</u>
<b>1985 Population &amp; Housing Trends</b>						
Population	1,275	1,845	1,971	2,083	2,322	1,422
Housing	509	636	536	525	769	471
Income*	\$20,086	\$14,203	\$19,331	\$19,729	\$15,275	\$19,745

**Percent Distributions  
By Race & Spanish Origin\*\***

Black	.01	.04	.00	.00	.06	.01
Asian	.01	.00	.00	.00	.01	.01
Spanish	.71	.85	.93	.93	.31	.75

**Notes:**

\*Denotes Median Family Income

\*\*Source: U.S. Bureau of the Census

Within Study Area One, two nude live entertainment clubs and two adult book store/theatres are found (Figure 2). One nude live entertainment club is found within Study Area Two (Figure 3) and three nude live entertainment clubs are found in Study Area Three (Figure 4).

**FIGURE 2**

**Study/Control Area One - Adult Entertainment Business Locations**

**FIGURE 3**

**Study/Control Area Two - Adult Entertainment Business Locations**

## FIGURE 4

### Study/Control Area Three - Adult Entertainment Business Locations

#### Character of Areas

Study Area One has approximately 509 single-family dwellings, and was platted as Loretto Place Subdivision in 1947. Heavy commercialization exists along Montana Street. The commercial activities include retail shops, banking facilities, restaurants, mechanic shops, arcade and pool hall, and office uses. Within this area, eleven changes of zoning have taken place; six to C-1 (Commercial) zoning, one to C-2 (Commercial) zoning and four changes to A-O (Apartment/Office). Control Area One has 636 housing units and like Study Area One has heavy commercialization along Montana Street. The commercial uses found within this area include primarily retail establishments and office uses. Two changes of zoning classification have occurred in this area; one to A-O (Apartment/Office) zoning and one to S-D (Special Development District) zoning.

Study Area Two was subdivided as McCamant (1923), Balboa Place (1934) and Hidden Valley (1965) and includes approximately 536 single-family dwelling units. Although this area overlaps three subdivisions, the residential uses are found primarily within Hidden Valley Subdivision. Strip commercial uses are found along Alameda Avenue including; retail shopping, auto sales and repair, Laundromats and service stations. Thirteen changes of zoning have been processed in this area; three to C-4 (Commercial) zoning, five to C-3 (Commercial) zoning, two to C-1 (Commercial) zoning and three changes to R-4 (Residential) zoning. Control Area Two, consisting of 525 housing units, was platted as Cedar Grove Subdivision (1953). The commercial uses also front along Alameda Avenue and are similar to those found in Study Area One. Within this area, four changes in zoning classification were processed. These include one change to A-2 (Apartment) zoning, one change to C-3 (Commercial) zoning and two to C-1 (Commercial) zoning.

Study Area Three was subdivided in 1913 as Morningside Heights Addition. Approximately 769 housing units are found in this area. Of the six areas, the lowest commercial activity is found in Study Area Three. The majority of dwelling units are multi-family ranging from four to eight units per structure. Ten changes in zoning occurred in this area; one to C-4 (Commercial), two to C-1 (Commercial), one to A-3 (Apartment) and six to A-2 (Apartment). In contrast, Control Area Three experienced four changes in zoning, all to C-3 (Commercial) zoning. Within Control Area Three, 471 housing units are found. The area was platted in 1906 as Grand View Addition and as Military Heights Subdivision in 1919. As in Study Area Three, several multi-family apartment complexes ranging in size from four to eight units per structure are observed.

A convenience store and Laundromat are commercial activities found within this area.

As shown in Table 3, the changes in zoning were substantially higher within the study areas. Although several factors influence a change in land use, commercialization of an area is an indicative factor. Of the total rezoning changes within the study areas, fifty-nine percent were changes to commercial districts. This percentage is representative of the commercialization taking place within each area along the major arterials. The increase in zoning change may be attributable in some manner to the close proximity of the residential uses to the adult entertainment businesses. Because residences are not conducive to the adult entertainment environment, or other commercial type uses, properties within residential settings convert to office, commercial or other intensive land uses. Adult entertainment businesses, by their commercial nature, affect land uses within a neighborhood and weigh heavily on changes to the character of such.

**TABLE 3**

**Percent Change in Zoning Classification  
(As of August, 1986)**

	<u>Study Area One</u>	<u>Control Area One</u>	<u>Study Area Two</u>	<u>Control Area Two</u>	<u>Study Area Three</u>	<u>Control Area Three</u>
Change to Residential	0	1	3	0	0	0
Change to Apartment	4	1	0	1	7	0
Change to Commercial	<u>7</u>	<u>0</u>	<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
Total	11	2	13	4	10	4

Source: Department of Planning, Research and Development, Zoning Change Files, 1975 to present

**Real Estate Impact**

Because of the great number of variables that have the potential to cause a particular real estate market to perform erratically at a small area level, the Department of Planning, Research and Development solicited professional opinions from real estate appraisers regarding the market effect of adult entertainment businesses on land values. Locally, twenty-nine attempts to contact the real estate appraisal community

were made. Nineteen total responses were received by a telephone survey conducted during the week of August 25-29, 1986 (Appendix IX). Each appraisal office was asked to respond to the following question, "In your best judgment, do you feel that adult bookstores, adult theatres and topless bars, within one block of a residential area, have a detrimental effect on residential property values?"

Of the nineteen responses, fifty-three percent (10) responded affirmatively, sixteen percent (3) responded negatively and thirty-one percent (6) offered no opinion. The most common rationale given for a no opinion response was that each type of adult entertainment business had to be judged on a case by case basis. Additionally, it was felt that adult entertainment businesses in proximity to other commercial type uses had a greater effect on neighborhood property values, than solely an adult entertainment establishment. Of the fifty-three percent who felt that residential property values were reduced, forty-seven percent from this sample also felt that commercial business values were reduced.

On a national level, the Indiana University School of Business Division of Research polled the real estate appraisal community on the subject. The survey was national in scope and was drawn at two levels. The membership of the American Institute of Real Estate Appraisers and the Member Appraisers Institute were surveyed by the University. In January 1984, approximately 1500 questionnaires were mailed. Of the respondents, eighty percent overwhelmingly felt that an adult entertainment business located in a neighborhood would have a negative impact on residential property values of premises located within one block of the site. Of these, twenty-one percent (21%) felt that the property value would decrease in excess of twenty percent (20%). Only one-fifth of all the respondents saw no resulting change in residential property values.

Seventy-two percent of those responding also felt that there would be a detrimental effect on commercial property values within a one block radius. Only ten percent felt that the effect would exceed twenty percent of worth, with the majority sixty-three percent reporting a one to twenty percent decrease in value. Twenty-eight percent of these surveyed predicted that there would be no negative effect on commercial property. While the great majority of appraisers felt that the effect of an adult entertainment business on property near a site would decrease in property value, they felt that this impact fell off sharply as the distance from the site increased. The national survey results concluded the following:

- That the majority of these appraisers who responded felt that a negative impact on residential and commercial properties was evident within one block radius of an adult entertainment business.
- That the negative impact dissipates markedly as the distance from the site increases.
- That the negative impact of an adult entertainment business is slightly

greater for residential property than for commercial property.

As in the national survey, local real estate appraisers overwhelmingly indicated that an adult entertainment business does affect residential property values. Although a causal relationship between adult entertainment businesses and neighborhood deterioration cannot be proven, the statistical data does provide evidence of such a relationship.

## **SOCIAL EFFECTS ON NEIGHBORHOODS**

### **Survey Objectives**

Adult entertainment businesses have a strong and direct effect on people's perception of their neighborhood. This relationship was noted in the U.S. Supreme Court case of the City of Renton v. Playtime Theatres, Inc. The court ruling showed that preventative versus after the fact zoning is an appropriate means for cities to use in protecting and preserving possibly their most valuable resource, "quality of life."<sup>2</sup>

As a part of this study, New Mexico State University prepared an attitudinal survey within the study and control areas to show the perceived effects of adult entertainment businesses on neighborhood residents. A neighborhood questionnaire was prepared to determine if residents of neighborhoods containing adult entertainment businesses perceived more problems in their neighborhoods than residents who live in areas which did not contain such uses. A copy of their report to the Office of the City Attorney is attached as Appendix IX.

### **Survey Format**

The questionnaires were distributed randomly among three-hundred (300) respondents, a total of fifty respondents from each study and control area. Businesses were sampled in proportion to their prevalence in the neighborhood (using land use percentage), the remaining surveys were completed in residences. Interviews were conducted during working hours, weekends and weekday evenings. The questionnaire for residences consisted of approximately ninety-eight (98) questions. The questions dealt with perceived neighborhood problems, perceived neighborhood safety and fear of crime. All questions regarding neighborhood problems were designed for this research. The questionnaire for businesses was similar. It consisted of questions regarding neighborhood problems, fear of crime and perceived business problems.

The analyses from the questionnaires were taken separately due to the differences in questions. The results from the three study areas were combined, and those for the control areas as well. In reporting the results of the analyses, the typical

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<sup>2</sup>City of Renton, et al., Appellants v. Playtime Theatres, Inc., et al., No. 84-1360, U.S. Supreme Court, 1986.

statistical method of reporting  $p = .05$  as significant and  $p = .10$  as marginally significant was used. In the survey, the sample of three hundred is used to generalize all residents of the six neighborhoods. When sample sizes are small, as in the survey, significant differences are likely to be underestimated, therefore marginally significant differences were considered to be meaningful in the interpretation of the results.

## Survey Results

In summary, the survey showed the following significant results:

- The residents of the study areas perceived significantly more neighborhood problems than the residents of the control areas ( $p = .05$ ).
- The residents of the study areas perceived their neighborhood as significantly less safe for children than residents of the control areas ( $p = .05$ ).
- The residents of the study areas reported being the victim of crime significantly more than the residents of the control areas ( $p = .05$ ).
- The residents of the study areas perceived their neighborhood as somewhat less safe at night than the residents of the control areas ( $p = .08$ ).
- The residents of the study areas feared being victimized by crime somewhat more than the residents of the control areas ( $p = .10$ ).
- Residents of the study areas stated that they had more reasons to call the police in the past years to report a neighborhood crime than the residents of the control areas ( $p = .06$ ).

In addition to the composite measures, some individual measures were also significant. The specific concerns that were viewed as being more pervasive in study areas than control areas are as follows: sexual dangers for women, sexual dangers for children, pornography in the schools, declining moral standards, exposure of minors to adult entertainment, declining property values and public drunkenness. Of the problems viewed as more prevalent within a neighborhood, the direct or indirect negative influence of adult entertainment businesses on children was viewed as significant. Additionally, the survey concluded that a strong and consistently higher pattern of neighborhood crime, resident fear, and resident dissatisfaction in the neighborhood containing adult entertainment was evident. To summarize, the survey clearly shows a difference between the perception of neighborhood residents in study and control areas that can be attributed to the adult entertainment businesses located within the areas.

## CRIME INCIDENCE

Within the past six years, the Congress and State Legislatures have been actively enacting legislation regulating adult entertainment businesses. Virtually all states now have some form of regulation. Of the studies, reports and articles examined from other cities, it has been consistently found that a relationship does exist between pornography and violence. The 1970 Report of the Presidential Commission on Pornography and Obscenity reported no anti-social effects attributed to pornography, and a no cause-and-effect relationship between pornography and violence. In June 1986, however, the Attorney General's Commission on Pornography, which was to assess the harm caused to society by pornography, found that "...some causal relationship to the level of sexual violence is beared from pornography"<sup>3</sup> The Meese Commission, as it is more commonly referred to, also reported that more violent and explicit pornography has flooded the market since 1970. This has been accompanied by an increase in the number of sex crimes.

Additionally, the Planning Department from Phoenix, Arizona, reported in its Adult Business Study (May, 1979), that arrests for sexual crimes and locations of adult business were directly related. The study showed that a higher amount of sex offenses were committed in neighborhoods in Phoenix containing adult businesses than in neighborhoods without them.

The Data Processing Unit of the El Paso Police Department tabulated all reported incidents of crime within the study and control areas as a part of this study. The data was compiled to identify any possible differences that might have occurred between the control areas and the areas where adult entertainment establishments were in operation. The crime statistics are based on the actual instance of crime in the areas. The groupings were assembled to determine if crime occurred more frequently in areas containing adult entertainment businesses. Whether or not crime frequencies are determined by the land use (location of adult entertainment businesses) in which they were committed cannot be definitely answered. However, frequency patterns are visible from the comparison.

The reported data was assembled for the period from July to December, 1985. The type of data assembled includes property crimes, violent crimes, sex offenses and traffic violations. The following table displays major crime activities for the six month period for each area.

**TABLE 4**

**Crimes and Offenses  
(From July to December, 1985)**

Study Area	Control Area	Study Area	Control Area	Study Area	Control Area
<u>One</u>	<u>One</u>	<u>Two</u>	<u>Two</u>	<u>Three</u>	<u>Three</u>

<sup>3</sup>Time Magazine, Sex Busters, July 21, 1986, Richard Stengel.

Property Crimes*	129	92	125	16	181	73
Violent Crimes**	20	19	25	0	71	21
Sex Offenses***	2	1	2	0	1	1
Traffic****	266	209	104	28	482	151

**Notes:**

\*Includes burglary, larceny, auto theft

\*\*Includes murder, rape, robbery, assault

\*\*\*Includes rape, indecent exposure, lewd & lascivious, child molest

\*\*\*\*Includes moving and parking violations

Of the total number of property and violent crimes committed in the six areas, seventy-two percent (72%) of the offenses occurred within the study areas (See Figure 5). This pattern was similar in comparison with frequency of sex offenses within the same time period. Of the seven total sex offenses, five (5) or seventy-two percent (72%) occurred within the study areas. Table 5 provides a more detailed breakdown of crime within each area and is based on the total number of calls for service.

**FIGURE 5**

**Percent Distribution of Crime**

**TABLE 5**

**Service Calls  
(From July to December, 1985)**

<u>Type Offense</u>	<u>Study Area One</u>	<u>Control Area One</u>	<u>Study Area Two</u>	<u>Control Area Two</u>	<u>Study Area Three</u>	<u>Control Area Three</u>
Murder	0	2	0	0	2	1
Rape	1	2	2	0	3	2
Robbery	1	3	10	0	4	1
Assault	18	12	13	0	62	17
Burglary	39	40	43	14	87	44
Theft of Vehicle	18	9	15	2	30	10
Larceny Theft	72	43	67	0	64	19
Forgery	3	0	13	1	5	1

Fraud	4	0	0	0	3	0
Prohibited Weapon	5	1	5	0	9	0
Prostitution/Vice	5	0	0	0	0	0
Sex Offenses	2	1	2	0	1	1
Offenses/Family	3	1	4	1	9	4
Drug Abuse	3	1	3	0	4	0
Liquor Laws	0	0	0	0	2	1
Drunk	36	43	26	1	56	40
Disorderly Conduct	201	162	177	46	495	139
Gambling	0	1	0	0	0	0
Lost/Stolen	21	20	9	2	25	26
Suicide	0	0	0	1	4	0
Attempted Suicide	0	0	1	0	1	4
Deaths/Bodies Found	0	2	1	0	1	4
Injured Party	13	16	13	5	26	10
Missing Person	6	10	9	3	26	6
Miscellaneous	482	316	281	87	1129	315
Traffic Violations	266	209	104	28	482	151
Offense not known	0	1	0	1	3	2
<b>TOTAL</b>	<b>1199</b>	<b>895</b>	<b>798</b>	<b>192</b>	<b>2533</b>	<b>794</b>

The table below illustrates a comparison of the ratio of crime for each area. Both the study and control areas experienced a significant incidence of crime. Much of this increase is expected given their location in generally older and more populous neighborhoods of the city. There appears to be a strong correlation between crime frequency and the residential character of neighborhoods. Furthermore, as can be seen, the ratio of crime is higher within the study areas in each classification of crime.

**TABLE 6**

**Ratio of Crime  
(From July to December, 1985)**

	<u>Study Area One</u>	<u>Control Area One</u>	<u>Study Area Two</u>	<u>Control Area Two</u>	<u>Study Area Three</u>	<u>Control Area Three</u>
Property Crimes*	.30	.29	.49	.36	.25	.30
Violent Crimes**	.05	.06	.10	.00	.10	.09
Sex Offenses***	.01	.00	.01	.00	.00	.00
Traffic****	.64	.65	.40	.64	.65	.61

**Notes:**

\*Includes burglary, larceny, auto theft

\*\*Includes murder, rape, robbery, assault

\*\*\*Includes rape, indecent exposure, lewd & lascivious, child molest

\*\*\*\*Includes moving and parking violations

The sex offense rates in the study areas is most significant. There is a higher number of sex offenses committed within Study Areas One and Two which have a larger number of adult entertainment businesses located within them. Although the analysis demonstrated in the comparison will not in itself establish an effectual relationship between adult entertainment businesses and crime rates. The statistics do clearly show that within each study area the incidences are substantially higher than in the areas where adult entertainment is not offered.

## **FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

Given the measures and samples chosen to determine the effects of adult entertainment businesses on neighborhoods and the attitudes of residents living near these establishments, the results of the study are quite clear. The study found that the following conditions exist within the Study Areas:

- The housing base within a study area decreases substantially with the concentration of these commercial uses.
- Properties located within a one-block radius of an adult entertainment business realize a decrease in property value (affecting both residential and commercial properties).
- Properties located near adult entertainment businesses experience an increase in listings on the real estate market.
- The presence of adult entertainment businesses result in a relative deterioration of the residential condition of a neighborhood.
- A statistically significant increase in crime is found in areas where adult entertainment businesses are located.
- The average crime rate in the study areas was seventy-two percent (72%) higher than that rate for control areas.
- Sex-related crimes occurred more frequently within neighborhoods having at least one adult entertainment business than in those with no adult businesses.

- The neighborhood residents within the study areas perceive far greater neighborhood problems than residents of the control areas.

- Study area residents feared significantly more neighborhood deterioration and crime than residents of the control areas.

No conclusions can be drawn from this study which correlate directly to a type of sexually oriented adult entertainment business. The difficulty of deriving measures for certain types of adult businesses necessitates collecting data regarding all types of adult entertainment businesses. The measures chosen for the study design, residential neighborhood condition and crime, are less difficult to convert statistically.

Since the effects demonstrated in this study relate to the concentration of adult entertainment businesses, the following recommendations should be considered in enactment of an ordinance regulating entertainment uses:

(1) That the ordinance support a reasonable balance between neighborhood protection and the constitutional right of these businesses to exist.

(2) That the location of adult entertainment businesses be limited in a given area to avoid the concentration of such establishments.

(3) That a licensing system be established for categorization of these uses, such license to be obtained by the Chief of Police or other designee.

(4) That a statement of purpose be contained within the ordinance itself to support the validity of the regulation.

(5) That the ordinance assert and show that the regulation protects the welfare of the citizenry and the quality of neighborhoods.

(6) That the ordinance specify distances from which an adult entertainment business may be located from a residential area, public use, or any other regulated use.

(7) That the provisions state, in some manner, the business of selling or dispensing alcoholic beverages within an adult entertainment establishment.

(8) That no adult entertainment establishment conduct business in a manner which permits the observation of such to any adjacent property.

(9) That annual inspections be required of all adult entertainment businesses to determine if all provisions are complied with.

(10) That provisions for a penalty and fine be enacted for adult entertainment businesses violating the ordinance.

(11) That special sign regulations apply to all premises for adult entertainment.

## APPENDIX I

### Adult Entertainment Business Listing - Citywide (As of June, 1986)

<u>NAME</u>	<u>LOCATION</u>	<u>TYPE</u>
Adult Theatre & Bookstore	4812 Montana	4
Aldo's Number One	3802 Pershing	1
B-G Club	6746 Edgemere	1
BK' s Cocktail Lounge	4005 Leavell	1
Black Garter	7601 Alameda	1
The Brass Lounge	4321 Dyer	1
The Cabaret Club	4834 Montana	1
Cosmopolitan	6343 Alameda	1
The Dollhouse	5715 Trowbridge	1
El Cine Theatre & Books/Magazines	314 S. Oregon	4
Eros Adult Bookstore & Movies	4828 Montana	4
Eros Adult Bookstore & Movies	108 W. Paisano	4
Eros Adult Fun Center	6215 Airport Road	2
Eve Theatre	1903 Texas	2
Flower Garden	4842 Montana	1
Golden Wheel	4910 Dyer	1
Lamplighter Lounge	9857 Montana	1
Martinique Club	7144 Alameda	1
Naked Harem	6343 Alameda	1
Nero's	10662 Vista del Sol	1
The Nugget	5711 Trowbridge	1
The Oar House	6726 Alameda	1
Palomino	5813 Paisano	1
The Paradise Adult Books/Movies	209 S. El Paso	4
Persian Cat	3810 Pershing	1
Pils	4013 Flory	1
Playmate	113-115 E. Franklin	1
Rainbow Lounge	4620 Dyer	1
The Red Flame	9330 Dyer	1
Starlet Club	6108 Dyer	1
Swingers Adult Bookstore & Movies	9872 Dyer	4
Swingers Boutique Adult Bookstore & Movies	1603 Montana	4
Trixx Adult Cinema	2230 Texas	2

Notes:

1 Includes bars, lounges, and clubs operating with topless waitresses

- 2 Adult theatre
- 3 Adult bookstore
- 4 Adult theatre/bookstore

## APPENDIX II

### Real Estate Codes

4/4/86, State Codes:

- A1 REAL RESIDENTIAL SINGLE FAMILY
- A2 REAL RESIDENTIAL MOBILE HOME
- A3 CONDOMINIUM (IF ASSESSED SEPARATELY, % PAID TOWARD COMMON AREA)
- A4 TOWNHOUSE (IF ASSESSED SEPARATELY, OWN LAND)
- A6 LOT UTILIZED AS MOBILE HOME
- B1 REAL RESIDENTIAL MULTI FAMILY (DUPLEX)
- B2 APARTMENT HOUSE (WITH OR WITHOUT STREET LEVEL STORES OR OFFICES)
- B3 QUADRAPLEX OR TRIPLEX
- C1 REAL VACANT RESIDENTIAL, PLATTED LOTS/TRACTS (FIVE ACRES OF LESS)
- C2 REAL VACANT COMMERCIAL
- C3 REAL COMMON OPEN AREA
- C4 COMMERCIAL COMMON OPEN AREA
- C5 AG AND NON AG (FIVE ACRES OR LESS)
- C6 VACANT PARCEL WITH AMENITY VALUE
- D1 REAL ACREAGE, RANCH LAND (OVER FIVE ACRES)
- D2 TIMBERLAND
- D3 FARM LAND (OVER FIVE ACRES)
- D4 UNDEVELOPED LAND
- D5 AG AND NON AG (OVER FIVE ACRES)
- E1 REAL FARM AND RANCH IMPROVEMENTS (HOMESTEAD AGRICULTURAL)
- E2 REAL FARM AND RANCH IMPROVEMENTS (OTHER THAN E1)
- F1 REAL COMMERCIAL (STORES AND MANUFACTURING)
- F2 REAL INDUSTRIAL
- F3 REAL COMMERCIAL (OFFICE BUILDINGS)
- F4 REAL COMMERCIAL (HOTEL AND MOTELS)
- F5 REAL COMMERCIAL (GASOLINE STATIONS)
- F6 REAL COMMERCIAL (GARAGES AND PARKING LOTS)
- F7 REAL COMMERCIAL (WAREHOUSES)
- F8 REAL COMMERCIAL (THEATRE BUILDINGS)
- F9 REAL COMMERCIAL (FINANCIAL INSTITUTIONS OTHER THAN BANKS)
- F0 REAL COMMERCIAL (HOSPITALS, CLINICS, AND NURSING HOMES)
- G1 OIL, GAS, AND MINERAL RESERVES (UNDERGROUND)
- H1 TANGIBLE PERSONAL VEHICLES
- I1 REAL ESTATE OWNED BY BANKS
- Y9 REFERENCE
- Z1 ALL ENTITIES (SCHOOLS, CITY, WATER, COUNTY AND FIRE)
- Z2 CHURCHES, PARKING LOTS, PARSONAGES AND CEMETERIES
- Z3 CHARITABLE INSTITUTIONS
- Z4 PRIVATE SCHOOLS
- Z5 UNIVERSITY OF TEXAS
- Z6 EL PASO PUBLIC SERVICE BOARD
- Z7 PEOPLE OF THE STATE OF TEXAS
- Z8 MEXICO
- Z9 UNITED STATES OF AMERICA

**APPENDIX III**

**Land Use - Study Area One**

**APPENDIX IV**

**Land Use - Control Area One**

**APPENDIX V**

**Land Use - Study Area Two**

**APPENDIX VI**

**Land Use - Control Area Two**

**APPENDIX VII**

**Land Use - Study Area Three**

**APPENDIX VIII**

**Land Use - Control Area Three**

**APPENDIX IX**

## Real Estate Appraisal Poll

<u>Name</u>	<u>Address</u>
Andressen & Co., Inc.	403 Executive Center Blvd.
Appraisal Associates of El Paso	310 N. Mesa, Suite 212
Brenner, Aaron	806 Myrtle
Burns, Scott	1115 Airway Blvd.
Clark Appraisal Service	1855 Trawood
Davis, Jim	1851 Trawood
Davis, John Alfred & Assoc.	2829 Montana
Dempsey, Richard T., Jr.	619 Arizona
Flores, Moises	549 Magoffin
G & R Appraisal Service	3517 Firestone
Kamp, John	311 N. Kansas
McKinstry, Fred	5862 Cromo
Passero & Associates	5822 Cromo
Real Estate Appraisals of El Paso	6044 Gateway Blvd. East
Rubalcava, J. Roberto, Sr.	3030 Montana
Sellers, Ralph	5862 Cromo
Toner, David T.	4100 Rio Bravo, Suite 315
Wagner, Dennis	4900 Montana
Wood, William E., Jr.	4120 Rio Bravo

### APPENDIX X

#### Report of the Perceived Neighborhood Problems New Mexico State University August, 1986

August 28, 1986

Mr. Rudy Hernandez  
Office of the City Attorney  
2 Civic Center Plaza  
El Paso, TX 79999

Dear Mr. Hernandez:

Enclosed is the report of "The Study of Perceived Neighborhood Problems" for the Office of the City Attorney, El Paso, Texas, in accordance with our contract of June 24, 1986.

Sincerely,

Cookie White Stephan  
Professor  
Director, Center for Social Research

**REPORT OF THE  
STUDY OF PERCEIVED NEIGHBORHOOD PROBLEMS**

**FOR THE OFFICE OF THE CITY ATTORNEY  
EL PASO, TEXAS**

**BY THE CENTER FOR SOCIAL RESEARCH  
NEW MEXICO STATE UNIVERSITY**

**August, 1986**

Cookie White Stephan, Ph.D.

Ronald A. Farrell, Ph.D.

**PURPOSE**

The purpose of the study was to determine if residents of the City of El Paso who live in neighborhoods containing sex-related businesses perceive more problems in

their neighborhood than residents who live in comparable neighborhoods of the City which do not contain such businesses.

## **METHODS**

Sample. The sample of the study was to consist of three neighborhoods containing topless bars, adult bookstores, and adult theatres (the experimental areas) and three similar neighborhoods containing no such businesses (the control areas). In fact, one control neighborhood (area 4) contained a topless bar. In addition, another control neighborhood (area 2) contained a home for transients and a ditch that is a primary pathway for illegals to enter the city, both of which were seen by the residents as creating an unusual number of neighborhood problems. The experimental and control neighborhoods were matched for land use patterns and demographic characteristics of residents; in each case the experimental and control neighborhoods were within close proximity. (See Appendix 1 for characteristics of the neighborhoods).

Fifty residences from each neighborhood were randomly selected for interview, for a total sample of 300 respondents. Businesses were sampled in proportion to their prevalence in the neighborhoods; the remaining surveys were completed at residences. (See Appendix 1 for sample sizes). Only respondents 17 years of age and older were interviewed. In businesses, either owners or managers were interviewed if available. Otherwise clerks were interviewed.

The respondent samples are comparable in terms of demographic characteristics, with the exception of sex. As may be seen in the analysis which follows, sex is unrelated to the responses of respondents in this study.

The interviewers were three female graduate students at New Mexico State University. The interviews were conducted either in Spanish or English, in accordance with the respondents' wishes. Sixty-five percent of the interviews were conducted during working hours from Monday through Friday. The remaining interviews were conducted during weekends and weekday evenings. The interviewers, who wore Office of the City Attorney identification badges, explained the study as a survey of neighborhood conditions to assist the City in improving these conditions. The response rate was 79%.

Survey forms. The questionnaire for residences consisted of 98 questions. Twenty-eight questions were concerned with perceived neighborhood problems, 2 questions allowed the respondent to list additional neighborhood problems, 2 questions concerned perceived neighborhood safety for adults, 5 questions concerned perceived neighborhood safety for children (answered only by respondents with minor children living at home), 13 questions concerned fears of being the victim of various crimes, 13 questions concerned the perceived seriousness of these crimes, 13 questions concerned the experience of being the victim of these crimes, 2 questions concerned calling the police regarding crime, 7 questions concerned security measures, and 9

questions related to the demographic characteristics of the respondents. The questions regarding neighborhood problems were designed for this research. All other scales were taken or adapted from national crime surveys.

The questionnaire for businesses was similar. It consisted of 28 questions concerned with perceived neighborhood problems, 11 questions concerning fears of being the victim of various crimes, 11 questions concerning the perceived seriousness of these crimes, 11 questions concerning being a victim of these crimes, 2 questions concerning calling the police regarding crime, 7 questions regarding security measures, four questions regarding perceived business problems, and an item designating the respondent's relationship to the business. (See Appendix 2 for the survey forms).

## **ANALYSIS**

Data from residences and businesses were analyzed separately due to differences in the questions asked in the resident and business samples.

Residences. To assess perceived neighborhood problems, a scale of perceived problems was formed from the responses to the 28 questions regarding neighborhood problems perceived to have existed during the last year. Any additional problems mentioned by the respondents were also tabulated. To assess fear of crime, a scale of fear of being the victim of 13 crimes was constructed. To assess actual victimization of crime, the respondents' rates of victimization for these 13 crimes during the last year were also tabulated. To document the seriousness with which the respondents viewed these 13 crimes, they were asked to rank their seriousness. As other measures of neighborhood problems, the number of times in the last year respondents reported they had called the police to report a crime in the neighborhood and the number of times in the last year the respondents reported they had reason to call the police to report a neighborhood crime were tabulated. To determine the extent to which the respondents felt the need to protect their homes from crime, a scale of security measures was comprised of 7 items regarding household security. The demographic characteristics of the respondents were also examined.

Businesses. A scale of perceived problems was formed from the responses to 28 questions regarding neighborhood problems perceived in the last year, and the additional problems listed by the respondents were tabulated. A scale of fear of being victimized by crime was constructed from the responses to the 11 questions regarding fear of crime. In addition, scales were constructed from the respondents' answers to the 11 questions regarding the seriousness of these crimes and the actual number of times in the last year the respondents had been the victims of these 11 crimes. The number of times respondents reported they had called the police in the last year to report a crime in the neighborhood was tabulated, as well as the number of times they reported that they had reason to call the police in the last year to report a neighborhood crime. A scale of security measures was comprised of the 7 item regarding security. In addition, the 4 items regarding business problems and the identity of the respondent were

tabulated.

Statistics. For each scale or item, a one-way analysis of variance was conducted to determine if the perception and experience of problems differed in experimental (sex-related businesses present) and control (sex-related businesses absent) neighborhoods. For these analyses, the three experimental neighborhoods were combined and the three control neighborhoods were combined. In reporting the results of these analyses, we follow the typical statistical convention of reporting  $p = .05$  as significant (5 or fewer chances in 100 of finding a difference between experimental and control neighborhoods by chance) and a  $p = .10$  as marginally significant (6 to 10 chances in 100 of finding a difference by chance). In this study a sample of 300 is used to generalize to all residents of the 6 neighborhoods. When sample sizes are small, as in this study, significant differences are likely to be underestimated. Therefore, we consider marginally significant differences to be meaningful in the interpretation of the results.

Residence data.

(1) The residents of the experimental neighborhoods perceived significantly more neighborhood problems than the residents of the control neighborhoods,  $p < .05$ . They also listed more additional neighborhood problems than the residents of the control neighborhoods.

(2) The residents of the experimental neighborhoods perceived their neighborhoods as significantly less safe for children than the residents of the control neighborhoods,  $p < .05$ .

(3) The residents of the experimental neighborhoods reported being the victims of crime significantly more than the residents of the control neighborhoods,  $p < .05$ . These crimes were perceived to be quite serious in nature.

(4) The residents of the experimental neighborhoods perceived their neighborhoods as somewhat less safe at night than the residents of the control neighborhoods,  $p < .08$ .

(5) The residents of the experimental neighborhoods feared being victimized by crime somewhat more than the residents of the control neighborhoods,  $p < .10$ .

(6) Residents of the experimental neighborhoods stated they had somewhat more reasons to call the police in the past year to report a neighborhood crime than the residents of the control neighborhoods,  $p < .06$ .

There were no differences in number of times residents in the experimental and control groups actually called the police to report neighborhood crimes in the last year, no differences between these groups on number of security measures in the home, and no differences in the perceived seriousness of the crimes. (See Tables 1 and 2 for all

measures).

In addition to the composite measures, some individual measures also were significant. The specific problems that were viewed as being more pervasive in experimental than control neighborhoods are as follows: sexual dangers for women, sexual dangers for children, homosexual misconduct, pornography in the schools, inability of families to guide the sexual conduct of children, declining moral standards, interference with the family's moral guidance of children, exposure of minors to adult entertainment, offensive business advertising, disturbing the peace, declining property values, public drunkenness, fighting, gambling, public indecency, and weapons. Drunk driving and adults who set bad examples for children were viewed as somewhat more pervasive in experimental than control neighborhoods.

The specific crimes of which residents of experimental neighborhoods had been a victim significantly more than residents of control neighborhoods were having someone expose themselves to the respondent and being endangered by a drunk driver. The specific crime which the residents of experimental neighborhoods feared somewhat more than residents of control neighborhoods was having someone try to sell or show them pornography.

The residents of the experimental and the control neighborhoods were similar in age, education, religion, religiosity, employment, and income. They differed only on one dimension: more females were interviewed in the experimental than in the control groups (Chi square = 4.24,  $p < .05$ ). Additional analyses of variance showed that sex of respondent does not account for the significant differences in responses to any of the measures reported above ( $F = 0.00$ ,  $p = n.s.$  for problems,  $F = 1.88$ ,  $p = n.s.$  for reasons to call the police,  $F = .77$ ,  $p = n.s.$  for safety,  $F = 1.25$ ,  $p = n.s.$  for safety of children,  $F = .66$ ,  $p = n.s.$  for being the victim of crimes. (See Table 3 for demographic characteristics of respondents).

Respondents with minor children living at home were more likely to report having called the police to report a neighborhood crime in the last year,  $p < .05$ ; to believe they had reason to call the police to report a neighborhood crime in the last year,  $p < .01$ ; to perceive more neighborhood problems,  $p < .01$ ; and to have a high degree of fear of crime,  $p < .001$ , relative to respondents without minor children living at home. Respondents with minor children living at home reported being the victims of somewhat more crimes than respondents without children,  $p < .10$ . There was also an interaction between presence/absence of children and neighborhood area. (See Table 4 for means). Respondents in the experimental group with minor children living at home reported about 3 times more neighborhood problems than respondents in all other groups,  $p < .05$ . These respondents were also somewhat more likely to have called the police to report a neighborhood crime in the last year than respondents in all other groups ( $F = 3.18$ ,  $p < .08$ ). (See Table 5 for means). Because the experimental and control neighborhoods did not differ in proportion of respondents with minor children living at home ( $F = .40$ ,  $p = n.s.$ ), the significant and marginally significant differences between experimental and control groups could not have been caused by such

differences.

Business data. There were no differences in measures between business respondents in the experimental and control areas. The lack of significance was anticipated, due to the small sample sizes. These respondents were included to ensure feedback from all types of neighborhood users. As a result of the random selection process, several operators of sex shops were respondents in the experimental groups.

## DISCUSSION

The data show that there are a number of differences between the experimental and control neighborhoods that can be attributed to sex-related businesses in the experimental neighborhoods. In neighborhoods containing sex-related businesses, residents perceive significantly more neighborhood problems, report being the victim of more crimes, and perceive the neighborhood as significantly less safe for children than residents of neighborhoods that do not contain sex-related businesses. In addition, in neighborhoods containing sex-related businesses, residents perceive their neighborhood as somewhat less safe at night, fear being the victim of crime somewhat more, and believe that they had somewhat more reasons to call the police in the past year to report a neighborhood crime than respondents in neighborhoods that do not contain sex-related businesses.

Considering the perceived problems in the control neighborhoods, especially those related to the presence of a topless bar, the data are markedly clear in showing differences between neighborhoods with and without sex-related businesses.

The residents of neighborhoods containing sex-related businesses seem particularly concerned about the influence of these businesses on children in the neighborhood. Many of the problems that are viewed as significantly more prevalent in these neighborhoods than in neighborhoods not containing sex-related businesses concern direct or indirect negative influences of these businesses on children. In addition, the residents of neighborhoods containing sex-related businesses who have minor children living at home are significantly more likely to perceive problems in their neighborhoods.

We believe that the numbers of problems reported are actually lower than the problems experienced by the residents in neighborhoods containing sex-related businesses. Many residents seemed to cope with the problems of these neighborhoods psychologically, by perceiving the sex-related businesses as being outside their neighborhood, even when they were in close proximity to their homes. It was common for respondents in the experimental areas who were only two blocks from a sex-related business to respond that their neighborhood had few problems but that the people in the neighborhoods where there were topless bars had terrible problems. This redefinition of neighborhood boundaries may have allowed residents of neighborhoods where sex-related businesses caused problems to justify their continued residence in the

neighborhoods.

Other respondents told the interviewers that they could not tell them about the problems caused by the sex-related businesses because they feared retaliation, or because they feared being involved in police investigations of these businesses. Despite the interviewers' assurances of confidentiality, the identification badges worn by the respondents identifying them as being from the City Attorney's Office apparently caused many respondents to believe that their responses would be turned over to the police with their names attached.

In conclusion, the data show a strong and consistent pattern of higher neighborhood crime, resident fear, and resident dissatisfaction in the neighborhoods containing sex-related businesses relative to neighborhoods that do not contain such businesses. We believe that these neighborhood problems are sufficiently great to justify action to decrease their magnitude in these neighborhoods.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

PHYLLIS WOODALL, & JEANNIE COUTTA,  
d/b/a/ THE NAKED HAREM; ALMA RUIZ,  
SOLEDAD AGUAYO, JOHN LUCIANO,  
WHANPEN DUBOIS, CHRISTINA JAMES  
& ELENA ANNA BROWN, employees of  
PHYLLIS WOODALL & JEANNIE COUTTA;  
LOUISE COMPTON, KEN COMPTON,  
d/b/a TRIXX ADULT THEATRE; JEDJO, INC.,  
SMD ENTERPRISES, INC., d/b/a THE  
LAMPLIGHTER & RED FLAME, MARC  
DIEDRICH, President, BRUCE SEIKO,  
Manager; HIROYOSHI IWABUCHI &  
wife LUZ IWABUCHI, HENRY IWABUCHI,  
ESTELA RODRIGUEZ d/b/a LATIN PALACE  
& CABARET; ENRIQUE VILLANUEVA,  
WILLIE CENICEROS, d/b/a SWINGER'S  
CINEMA,

Plaintiffs,

vs.

NO. EP-88-CA-127



\_\_\_\_\_  
PATRICIA D. GARCIA

SWORN AND SUBSCRIBED TO before me, the undersigned authority, this 28th day of September, 1989.

\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF TEXAS

"My name is Carole Hunter, I am the City Clerk for the City of El Paso. I hereby certify under seal, that PATRICIA D. GARCIA is the custodian of records for the Department of Planning, Research and Development of the City of El Paso with respect to the studies that were prepared at the request of the City of El Paso regarding the effect of adult entertainment businesses on neighborhoods, and that her signature as shown above, is genuine.

\_\_\_\_\_  
CAROLE HUNTER

SWORN AND SUBSCRIBED TO before me, the undersigned authority, this 28<sup>th</sup> day of September, 1989.

\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF TEXAS

September 26, 1986

Office of the City Attorney:

Submitted herewith is the report on Effects of Adult Entertainment Businesses on Residential Neighborhoods. The study was undertaken to examine potential negative

impacts created by adult entertainment businesses to the land use characteristics of the area in which they are located. Additionally, the study examined the perceived social effects and the incidence of crime to show the deviation between study areas having adult entertainment businesses and control areas which do not.

The analyses show that adult entertainment businesses are an obvious variable in the negative impacts in each instance of comparison. Based on the findings, the Department of Planning, Research and Development recommends that adult entertainment businesses be regulated insofar as location, concentration, licensing, signage and other such applicable provisions.

DEPARTMENT OF PLANNING,  
RESEARCH AND DEVELOPMENT

Nestor A. Valencia, A.I.C.P.  
Director

Patricia D. Garcia  
Current Planning Coordinator  
Land Development Division



# NATIONAL LAW CENTER FOR CHILDREN AND FAMILIES®

## NLC SUMMARIES OF "SOB LAND USE" STUDIES

### CRIME IMPACT STUDIES BY MUNICIPAL AND STATE GOVERNMENTS ON HARMFUL SECONDARY EFFECTS OF SEXUALLY-ORIENTED BUSINESSES

- |   |   |
|---|---|
| 1. <i>American Center for Law and Justice</i> | 23. <i>Austin, Texas</i>  |
| 2. <i>Phoenix, Arizona</i>                    | 24. <i>Beaumont, Texas</i>  |
| 3. <i>Tucson, Arizona</i>                     | 25. <i>Cleburne, Texas</i>  |
| 4. <i>Garden Grove, California</i>            | 26. <i>Dallas, Texas</i>  |
| 5. <i>Los Angeles, California</i>             | 27. <i>El Paso, Texas</i>   |
| 6. <i>Whittier, California</i>                | 28. <i>Houston, Texas 1983</i>  |
| 7. <i>Adams Co., Colorado</i>                 | 29. .... <i>Houston, Texas 1986</i>                                     |
| 8. <i>Manatee Co., Florida</i>                | 30. .... <i>Houston, Texas 1991</i>                                     |
| 9. <i>Indianapolis, Indiana</i>               | 31. .... <i>Houston, Texas 1997</i>                                     |
| 10. <i>Minneapolis, Minnesota</i>             | 32. <i>Newport News, Virginia</i>                                       |
| 11. <i>Saint Paul, Minnesota</i>              | 33. <i>Bellevue, Washington</i>   |
| 12. <i>Las Vegas, Nevada</i>                  | 34. <i>Des Moines, Washington</i>                                       |
| 13. <i>Ellicottville, New York</i>            | 35. <i>Seattle, Washington</i>  |
| 14. <i>Islip, New York</i>                    | 36. <i>St. Croix Co., Wisconsin</i>                                     |
| 15. <i>New York, New York</i>                 | 37. <i>Rome, Georgia</i>  |
| 16. <i>Times Square, New York</i>             | 38. <i>Saint Marys, Georgia</i>   |
| 17. <i>New Hanover Co., North Carolina</i>    | 39. <i>Adams County, Colorado</i>                                       |
| 18. <i>Cleveland, Ohio</i>                    | 40. .... <i>Saint Paul, Minnesota</i>                                   |
| 19. <i>Oklahoma City, Oklahoma</i>            | 41. <i>The State of Minnesota, Attorney<br/>General's working group</i> |
| 20. <i>Oklahoma City, Oklahoma II</i>         | 42. <i>Kennedale, Texas</i>   |
| 21. <i>Hamilton County, Tennessee</i>         | 43. <i>Effingham County, Effingham, Illinois</i>                        |
| 22. <i>Amarillo, Texas</i>                    |   |



***National Law Center Summary of the***  
**AMERICAN CENTER FOR LAW AND JUSTICE**

**LAND USE STUDY**

**DATED MARCH 31, 1996**

**OVERVIEW:** This report, compiled by the Environmental Research Group for the American Center for Law and Justice in 1996, reviews the current state of knowledge about the impact of sexually-oriented businesses (SOBs) upon nearby residential and commercial areas. The study particularly notes the effect of SOBs on smaller municipalities. The study finds that SOBs support detrimental activities (i.e. personal and property crimes, prostitution, drugs, etc.) within the vicinity that are incompatible with activities occurring within residential areas. SOBs also have a negative impact on local businesses. Evidence indicates that when SOBs are located near each other or near businesses that serve alcohol, the harmful impact increases. Noting that this is not a recent problem, the study points to many municipalities that have examined the impact of SOBs on surrounding communities, thereby building an ample record of evidence in support of regulation and restriction of location and concentration of SOBs.

**FINDINGS:** The study gives a "Historic Overview" of the issues of SOBs and their effects, dating back to the late eighteenth century. The "tableau vivant" and "concert saloon," were the forerunners of today's "topless bar," seemingly in response to the economic pressures of the young working male of that day. The clientele of today's SOBs has not changed very much over time, being mostly young, single, transient males. In the past, when these businesses operated in a legal, far less regulated climate, it was much easier to see the link between SOBs and crime. Today, the impact of SOBs on its surroundings is less clear, but broader in scope.

The report examines the Garden Grove, CA study by McCleary and Meeker (1991) in depth, which studies 10 years worth of crime statistics in the area, pointing out the significant increase in property (burglary, theft, auto theft) and personal (assault and robbery) crimes that occur within 1,000 feet of an SOB when it is located near an establishment that sells alcohol. They also cite the City of Indianapolis study, which found a 77% higher incidence of serious crime in the area with multiple SOBs compared to the control area (matched by demographic characteristics, building types, etc.). The study indicated that SOBs help create conditions that draw outsiders to the area and provide venues for opportunistic crimes. Sex-related crimes were 4 times higher in *residential* areas near an SOB than in *commercial* areas near an SOB. Similar findings regarding significant increases in crime and arrests in areas near SOBs are referenced from studies out of Minnesota, the City of Austin, Los Angeles, and Hollywood.

Public and semi-private spaces (such as parking lots, spaces between buildings, and parks) have questionable ownership, thereby furthering the opportunity for crime. When an SOB exists, these areas become used for illicit purposes. As a result, legitimate users and residents are driven away by the illicit activity. A public area devoid of women and elderly is an indication of the relative safety in a public space. As potential patrons avoid an area, other commercial businesses suffer. The study notes that women who do walk in areas near an SOB can be subject to harassment and propositioning from assumptions that the woman is associated with the SOB. This all contributes to a "climate of fear" that intimidates people and causes them to avoid the area altogether. This may also contribute to declining property values.



***National Law Center Summary of the***  
**AMERICAN CENTER FOR LAW AND JUSTICE**  
**LAND USE STUDY**  
**(CONTINUED)**

The study points to evidence that the presence of SOBs effects perceived reductions in the value of residential and commercial property. The City of Indianapolis conducted the most detailed survey, doing a 20% sample national survey of real estate appraisers and a 100% survey of appraisers in similarly-sized cities with a response rate of 33%. Seventy-five percent of those responding indicated that there was a significant negative impact on residential and commercial property values when SOBs are located nearby. In fact, no other type of facility (including drug rehab centers), have such a significant negative impact on property values. A City of Austin study stated that the presence of SOBs in a neighborhood leads mortgage lenders to the conclusion that it is in decline. Similar results have been found in other studies.

The study references trade area studies that indicate SOBs are regional facilities that primarily attract people from outside the neighborhood. A license plate study in Bothell, Washington showed that out of 321 cars in the parking lot of an SOB, only 8 (2.5%) were registered in Bothell. A regional customer base, as opposed to a neighborhood customer base makes SOB owners less responsive to neighborhood problems, decreases the informal social control of behavior, and increases the potential for opportunistic crime.

Finally, the study indicates that the negative effects of an SOB in a small town will likely be more magnified than in a bigger city. First, the compact nature of surrounding residential areas to the downtown area increases the reach that harmful, negative effects would have in the town. Also, smaller populations and shorter commercial business hours result in much lighter use of public, semi-private, uncontrolled spaces (i.e. parks, parking lots and recessed storefronts), thereby providing much greater potential for illicit activity in areas surrounding SOBs. Small towns typically experience more economic stress than larger cities. This is aggravated when SOBs locate in the downtown business district of a small town.



***National Law Center Summary of the***  
**PHOENIX, ARIZONA**  
**LAND USE STUDY**  
**DATED MAY 25, 1979**

The study examines crime statistics for 1978 comparing areas which have sexually-oriented businesses with those that do not. The results showed a marked increase in sex offenses in neighborhoods with sexually-oriented businesses, and also proved increases in property and violent crimes as well. This study is not unique but is unusually significant, in covering the issue of property crimes more extensively.

Three study areas (near locations of sexually-oriented businesses) and three control areas (with no sexually-oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and non-residential purposes.

Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

On average, the number of sex offenses was 506% greater in neighborhoods where sexually-oriented businesses were located. In one of the neighborhoods the number was 1,000% above the corresponding control area. Of the sex offenses, indecent exposure was the most common offense and the largest contributor to the increase of crimes in areas where sexually-oriented businesses were located. Even without considering the crime of indecent exposure, the number of other sex crimes, such as rape, lewd and lascivious behavior, and child molestation, was 132% greater than in control areas without sexually-oriented businesses.

On average the number of property crimes was 43% greater in neighborhoods where sexually-oriented businesses were located, and the number of violent crimes was 4% higher in those areas.

The Phoenix ordinance requires sexually-oriented businesses to locate at least 1,000 feet from another sexually-oriented business and 500 feet from a school or residential zone. Approval by the City Council and area residents can waive the 500 foot requirement. A petition signed by 51% of the residents in the 500 foot radius who do not object must be filed and be verified by the Planning Director.



***National Law Center Summary of the***  
**TUCSON, ARIZONA**  
**LAND USE STUDY**  
**DATED MAY 1, 1990**

**OVERVIEW:** This report is a memorandum from Police Department Investigative Services to the City Prosecutor describing events and activities at "adult entertainment bookstores and establishments" that demonstrate the need for stronger ordinances. Investigations had been in progress since 1986 following numerous complaints of illegal sexual activity and unsanitary conditions.

**FINDINGS:** Officers found a wide variety of illegal sexual conduct at all adult businesses. At virtually every such business, employees were arrested for prostitution or obscene sex shows. Dancers were usually prostitutes where, for a price, customers could observe them performing live sex acts. At several businesses, customers were allowed inside booths with dancers and encouraged to disrobe and masturbate. Many times, dancers would require customers to expose themselves before they would perform. Underage dancers were found, the youngest being a 15 year old female.

Within peep booths, officers found puddles of semen on the floor and walls. If customers had used tissues, these were commonly on the floor or in the hallway. On two occasions, fluid samples were collected from the booths. In the first instance, 21 of 26 samples (81%) tested positive for semen. In the second sampling, 26 of 27 fluid samples (96%) tested positive for semen. "Glory holes" in the walls between adjoining booths facilitated anonymous sex acts between men.

**RECOMMENDATIONS:** (1) The bottom of the door in peep booths must be at least 30 inches from the floor so that an occupant can be seen from the waist down when seated. (2) The booth cannot be modified nor can a chair be used to circumvent the visibility of the client. (3) Employee licensing procedures that include a police department background check should be put in effect. (4) In the event of a denied or revoked license, the requirement of a hearing before any action is taken.



***National Law Center Summary of the***  
**GARDEN GROVE, CALIFORNIA**  
**LAND USE STUDY**  
**DATED SEPTEMBER 12, 1991**

**OVERVIEW:** This report by independent consultants summarizes statistics to determine whether adult businesses should be regulated because of their impact on the community in terms of crime, decreased property values and diminished quality of life. Statistics were measured from 1981 to 1990, and included crime data and surveys with real estate professionals and city residents. Garden Grove Boulevard, which has seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results. The report includes a brief legal history of adult business regulation and an extensive appendix with sample materials and a proposed statute.

**CRIME:** Crime increased significantly with the opening of an adult business, or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses (termed "Part I" crimes: homicide, rape, robbery, assault, burglary, theft and auto theft). On Garden Grove Boulevard, the adult businesses accounted for 36% of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300% the next year.

**REAL ESTATE:** Overwhelmingly, respondents said that an adult business within 200-500 feet of residential and commercial property depreciates that property value. The greatest impact was on single family homes. The chief factor cited for the depreciation was the increased crime associated with adult businesses.

**HOUSEHOLD SURVEYS:** 118 calls were completed in a random sample of households in the Garden Grove Boulevard vicinity. The public consensus was that adult businesses in that area were a serious problem. Nearly 25% of the surveyed individuals lived within 1,000 feet of an adult business. More than 21% cited specific personal experiences of problems relating to these businesses, including crime, noise, litter, and general quality of life. 80% said they would want to move if an adult business opened in their neighborhood, with 60% saying they "would move" or "probably would move." 85% supported city regulation of the locations of adult businesses, with 78% strongly advocating the prohibition of adult businesses within 500 feet of a residential area, school or church. Women commonly expressed fear for themselves and their children because of adult businesses.

**RECOMMENDATIONS:** The report concludes that adult businesses have a "real impact" on everyday life through harmful secondary effects and makes four recommendations: (1) Keep current requirement of 1,000 feet separation between adult businesses; (2) Prohibit adult establishments within 1,000 feet of residential areas; (3) Enact a system of conditional use permits for adult businesses with police department involvement in every aspect of the process; and (4) Prohibit bars or taverns within 1,000 feet of an adult business.



***National Law Center Summary of the***  
**LOS ANGELES, CALIFORNIA**  
**LAND USE STUDY**  
**DATED JUNE, 1977**

**OVERVIEW:** The Department of City Planning studied the effects of the concentration of sexually-oriented businesses on surrounding properties for the years 1969-75 (a time of proliferation for such businesses). The report focuses on five areas with the greatest concentration of these businesses (compared to five "control" areas free of them), and cites data from property assessments/sales, public meeting testimony, and responses from two questionnaires (one to business/residential owners within a 500 foot radius of the five study areas and a second to realtors/real estate appraisers and lenders). Crime statistics in the study areas were compared to the city as a whole. Also included: a chart of sexually-oriented business regulations in eleven major cities, details of current regulations available under state/municipal law, and appendices with samples of questionnaires, letters, and other study materials.

**PROPERTY:** While empirical data for 1969-75 did not conclusively show the relation of property valuations to the concentration of sexually-oriented businesses, more than 90% of realtors, real estate appraisers and lenders responding to city questionnaires said that a grouping of such businesses within 500-1,000 feet of residential property decreases the market value of the homes. Also, testimony from residents and business people at two public meetings spoke overwhelmingly against the presence of sexually-oriented businesses citing fear, concern for children, loss of customers and difficulty in hiring employees at non-adult businesses, and the necessity for churches to provide guards for their parking lots.

**CRIME:** More crime occurred in areas of sexually-oriented business concentration. Compared to city-wide statistics for 1969-75, areas with several such businesses experienced greater increases in pandering (340%), murder (42.3%), aggravated assault (45.2%), robbery (52.6%), and purse snatching (17%). Street robberies, where the criminal has face to face contact with his victim, increased almost 70% more in the study areas. A second category of crime, including other assaults, forgery, fraud, counterfeiting, embezzlement, stolen property, prostitution, narcotics, liquor laws, and gambling increased 42% more in the study areas over the city as a whole.

**RECOMMENDATIONS:** The study recommended distances of more than a 1,000 feet separating sexually-oriented businesses from each other, and a minimum of 500 feet separation of such businesses from schools, parks churches and residential areas.



***National Law Center Summary of the***  
**WHITTIER, CALIFORNIA**  
**LAND USE STUDY**  
**DATED JANUARY 9, 1978**

**OVERVIEW:** After experiencing a rapid growth of sexually-oriented businesses since 1969, the Whittier City Council commissioned a study of the effects of the businesses on the adjacent residential and commercial areas. At the time of the study, Whittier had 13 "adult" businesses: 6 model studios, 4 massage parlors, 2 bookstores, and 1 theater. Utilizing statistics, testimonies, and agency reports, the study compared two residential areas and four business areas over a span of 10 years (1968-1977). One residential area was near the largest concentration of adult businesses, the other had no commercial frontage but was chosen because of similar street patterns, lot sizes and number of homes. For businesses, Area 1 had six adult businesses, Area 2 had one, Area 3 had three, and Area 4 had none. 1973 was selected as the year to compare before and after effects of the adult businesses. Two chief concerns cited in the report are residential and business occupancy turnovers and increased crime.

**OCCUPANCY TURNOVER:** After 1973, 57% of the homes in the adult business area had changes of occupancy, compared to only 19% for the non-adult business area. Residents complained of "excessive noise, pornographic material left laying about, and sexual offenders (such as exhibitionist) venting their frustrations in the adjoining neighborhood." Citizens also expressed concern about drunk drivers coming into the area. Business Area 1, with the most concentration of adult businesses (6), experienced a 134% increase in annual turnover rate. Area 3, with three adult businesses at one location, showed a 107% turnover rate. Area 2 (with 1 adult business) had no measurable change and Area 4 (with no commercial or adult businesses) experienced a 45% decrease in turnover from similar periods.

**CRIME:** The City Council looked at the two residential areas for the time periods of 1970-73 (before adult businesses) and 1974-77 (after adult businesses). In the adult business area, criminal activity increased 102% (the entire city had only an 8.3% increase). Certain crimes skyrocketed (malicious mischief up 700%; all assaults up 387%; prostitution up 300%). All types of theft (petty, grand, and auto) increased more than 120% each. Ten types of crime were reported for the first time ever in the 1974-77 period.

**RECOMMENDATIONS:** The Council's report recommended a dispersal type ordinance that prohibits adult businesses closer than 500 feet to residential areas, churches and schools. Distances between adult businesses was recommended at 1,000 feet. In addition, the study proposed a 1,000 foot separation from parks because of their use by citizens after normal working hours. Adult businesses would be given an 18-36 month amortization period (if the change involved only stock in trade, a 90 day period was recommended).



***National Law Center Summary of the***  
**ADAMS CO., COLORADO**  
**LAND USE STUDY**  
**DATED APRIL, 1988**

**OVERVIEW:** This report, authored by Sgt. J.J. Long of the Adams County Sheriffs Department, was designed to accompany a new Nude Entertainment Ordinance. The report covers two parts: first, an April 1988 study of six representative locations in Adams County was undertaken to determine the transiency of adult business customers. Second, crime statistics in two Adams County areas featuring adult businesses were gathered for the years of 1986 and 1987. The study concluded that there was a clearly demonstrated rise in crime and violence, and an increase in the attraction to transients to the area as a result of nude entertainment establishments. This caused a danger to residents and an undesirable model for youth and the community at large.

**FINDINGS:** Adams County features 6 adult bookstores (all but one featuring nude entertainment), 1 all nude "pop shoppe," 7 massage parlors, 8 topless nightclubs (with liquor licenses), and 6 nude "rap," lingerie, and modeling-type studios (28 locations in all). An April 1988 study of six adult business locations in Adams County, revealed that 76% of patrons were transient. During the time when no adult ordinance was in effect in Adams County (1986 and 1987), 24 crimes were reported in one area featuring two adult businesses. Eighty-three percent of these crimes were linked to the adult businesses. Forty-two percent of these crimes occurred at the location of an all-nude establishment, and sixty-four percent occurred outside the hours of 4:00 p.m. to midnight. During 1987, 28 crimes were reported, 93% of which were linked to the adult businesses, 50% were alcohol-related offenses, and 77% occurred at a single establishment. Finally, 61% of those crimes occurred during hours other than those between 4:00 p.m. and midnight. Crime rates between 1986 and 1987 for another Adams County area featuring three adult bookstores, two topless nightclubs, a bar, a liquor store, and a beer outlet revealed a 15% increase in crime, (i.e., 55 crimes in 1986 as opposed to 63 in 1987). In 1986, 29 of those crimes involved alcohol, while in 1987, 41 were linked to alcohol (a 41% increase). A rural area of Adams County with a single topless nightclub experienced a 39% increase in crime between 1986 and 1987. There was a marked increase in the number of adult entertainment locations opening for business during 1986 and 1987. Further, a check of criminal histories of some of the offenders showed arrests for morals crimes, sexual assaults, alcohol-related offenses, and crimes of violence. A study of armed robbery in one area during the same time period revealed that 66% of all reported armed robberies occurred at the adult bookstores. Finally, seven homicides from 1977 to 1987 were directly linked to adult bookstores and nude entertainment businesses.

The 1988 enactment of the Nude Entertainment Ordinance, which was upheld by the Colorado Supreme Court, reduced the number of adult businesses in Adams County to only 14. The Adams County ordinance included the following provisions: 1) restricting hours of operation from 4:00 p.m. to midnight, Monday to Saturday; 2) restricting location of SOBs to 500 feet from sensitive uses; 3) an amortization clause requiring compliance within a six month period; and 4) a public nuisance provision for repeated or continuing violation of the ordinance.



***National Law Center Summary of the***  
**MANATEE CO., FLORIDA**  
**LAND USE STUDY**  
**DATED JUNE, 1987**

**OVERVIEW:** This report, conducted by the Manatee County Planning and Development Department, examines the ramifications of a proposed adult entertainment ordinance. It depends upon the findings of other jurisdictions to forecast the effects of adult businesses in Manatee County. It also examines other land use studies in order to determine appropriate land use controls for Manatee County.

**FINDINGS:** The **Boston Model** of concentrating adult businesses into on "combat zone" has the following advantages: 1) like uses are treated alike; 2) lower administrative costs; 3) control over growth of pornographic uses and the development of specific new uses; 4) no definitional vagueness; 5) apparent constitutionality; and 6) easier evaluation of total public services impact of pornographic uses (traffic, limited parking, higher police costs and other effects). Disadvantages of this model center on the blighting effect when a central zone is created. It may also attract "undesirables" to one area. The **Detroit Model** has these advantages: 1) apparent constitutionality (withstood challenge in *Young v. American Mini Theatres*); and 2) creates a separation zone between other adult businesses and residential areas. However, it suffers from definitional weaknesses. Most jurisdictions have adopted some form of the Detroit model. Other cities have added additional buffer requirements.

Studies of secondary effects in other cities (Austin, TX, Indianapolis, IN, Los Angeles, CA, and St. Paul, MN) have examined the impact of adult businesses on property value, crime rates, and incidences of blighting. Based upon the negative findings in these areas, cities have recommended zoning and other land use regulations.

There are five adult businesses currently in the County. All five are separated from one another by more than 1,000 feet. None meet the minimum residential buffer distance of 500 feet.

**RECOMMENDATIONS:** The dispersal model ordinance should be considered. The present zoning ordinance should be amended to add buffer requirements to provide distance from 1) residential districts, 2) churches, schools, child care facilities, and public recreation areas, and 3) other established adult businesses. There should be at least 500 feet of separation between an adult business and the nearest residential zone. A 2000 foot buffer should be established for churches, schools, child care facilities, and recreation areas. Adult businesses should be separated from one another by at least 1000'. A one year amortization period for compliance should be considered (as provided in the draft ordinance). "Sign controls should be considered which still protect a business's freedom to advertise, but also minimize public's exposure to such uses."

**INDIANAPOLIS, INDIANA**



***National Law Center Summary of the***  
**LAND USE STUDY**  
**DATED FEBRUARY, 1984**

**OVERVIEW:** After a 10 year growth in the number of sexually-oriented businesses (to a total of 68 on 43 sites) and numerous citizen complaints of decreasing property values and rising crime, the city compared 6 sexually-oriented business "study" areas and 6 "control" locations with each other and with the city as a whole. The study and control areas had high population, low income and older residences. In order to develop a "best professional opinion," the city collaborated with Indiana University on a national survey of real estate appraisers to determine valuation effects of sexually-oriented businesses on adjacent properties.

**CRIME:** From 1978-82, crime increases in the study areas were 23% higher than the control areas (46% higher than the city as a whole). Sex related crimes in the study areas increased more than 20% over the control areas. Residential locations in the study areas had a 56% greater crime increase than commercial study areas. Sex related crimes were 4 times more common in residential study areas than commercial study areas with sexually-oriented businesses.

**REAL ESTATE:** Homes in the study areas appreciated at only 1/2 the rate of homes in the control areas, and 1/3 the rate of the city. "Pressures within the study areas" caused a slight increase in real estate listings, while the city as a whole had a 50% decrease, denoting high occupancy turnover. Appraisers responding to the survey said one sexually-oriented business within 1 block of residences and businesses decreased their value and half of the respondents said the immediate depreciation exceeded 10%. Appraisers also noted that value depreciation on residential areas near sexually-oriented businesses is greater than on commercial locations. The report concludes: "The best professional judgment available indicates overwhelmingly that adult entertainment businesses -- even a relatively passive use such as an adult bookstore -- have a serious negative effect on their immediate environs."

**RECOMMENDATIONS:** Sexually-oriented businesses locate at least 500 feet from residential areas, schools, churches or established historic areas.



***National Law Center Summary of the***  
**MINNEAPOLIS, MINNESOTA**  
**LAND USE STUDY**  
**DATED OCTOBER, 1980**

**OVERVIEW:** This report is divided into two sections: the relationship of bars and crime and the impact of "adult businesses" on neighborhood deterioration. In the study, an "adult business" is one where alcohol is served (including restaurants) or a sexually-oriented business (i.e., saunas, adult theaters and bookstores, rap parlors, arcades, and bars with sexually-oriented entertainment). Census tracts were used as study areas and evaluated for housing values and crime rates. Housing values were determined by the 1970 census compared to 1979 assessments. Crime rates were compared for 1974-75 and 1979-80. The study is strictly empirical and reported in a formal statistical manner; therefore it is difficult for layman interpretation of the data.

**FINDINGS:** The report concludes that concentrations of sexually-oriented businesses have significant relationship to higher crime and lower property values. Other than statistical charts, no statements of actual crime reports or housing values are included in the report. thus, the lay reader has only the most generalized statements of how the committee interpreted the empirical data.

**RECOMMENDATIONS:** First, that adult businesses be at least 1/10 mile (about 500 feet) from residential areas. Second, that adult businesses should not be adjacent to each other or even a different type of late night business (i.e., 24-hour laundromat, movie theaters). third, that adult businesses should be in large commercial zones in various parts of the city (to aid police patrol and help separate adult businesses from residential neighborhood). The report said "policies which foster or supplement attitudes and activities that strengthen the qualities of the neighborhoods are more likely to have desired impacts on crime and housing values than simple removal or restriction of adult businesses."



***National Law Center Summary of the***  
**ST. PAUL, MINNESOTA**  
**LAND USE STUDY**

**DATED ARIL, 1988 (SUPPLEMENTAL TO 1987 STUDY)**

OVERVIEW: As a "result of a growing concern among St. Paul citizens that the City's existing adult entertainment zoning provisions, adopted in 1983," did not "adequately address the land use problems associated with adult entertainment", the City Council directed the Planning Commission to study possible amendments to the Zoning Code. The Commission's proposed amendment was based on findings made during public hearings. The "substitute" "Amendment", adopted by the City Council, is a result of those findings and the findings made by the Council during its public hearings. The 1988 Study includes the findings, addresses the nine key features of the "substitute" "Amendment", and gives the rationale for each.

FINDINGS, "AMENDMENT", AND RATIONALE:

1) "[A]dult uses are harmful to surrounding commercial establishments but that significant spacing requirements between adult uses can minimize the harm in zones reserved for the most intensive commercial activity."

2) The "Amendment" treats all nine defined adult uses the same. Included are: "adult bookstores", "cabarets", "conversation/rap parlors", "health/sport clubs", "massage parlors", "mini-motion picture theaters", "motion picture theatres", "steamroom/bathhouse facilities", and "other adult uses." Each is defined as providing "matter", "entertainment", or "services" which is "distinguished or characterized by an emphasis on the "depiction", "description", "display" or "presentation" of "specified sexual activities" or "specified anatomical areas." "Most, if not all, existing statistical studies of the impact of adult uses do not differentiate between different types of adult uses and do not recognize that the land use impact of various types of adult uses is significantly different." "[E]qual treatment is consistent with the emphasis on deconcentration".

3) The "Amendment" set spacing between adult uses at 2,640 feet outside of the downtown area and 1,320 feet downtown. A six-block goal could not be met because of the necessity to provide a "sufficient land mass". The Phoenix and Indianapolis land use studies indicate that "the negative land use impact of a single adult use extends for up to three blocks".

4) Distances between adult uses and residential zones were increased from 200 feet to 800 feet "outside of downtown" and from 100 to 400 feet downtown in the substitute "Amendment". The goal of 1,980 feet outside of "downtown" and 990 feet downtown could not be met because of the necessity to provide "enough land and sites for potential future adult uses."

5) Distances from "protected uses" outside of downtown were increased from zero to 400 feet and from 100 to 200 feet downtown. Protection for zones "other than residential or small neighborhood business zones" was "justified" because their populations are "particularly vulnerable to the negative impacts of adult uses." "Protected uses" are: day care centers; houses of worship; public libraries; schools; public parks/parkways/public recreation centers and facilities; fire stations (because of use for bicycle registration and school field trips); community residential facilities; missions; hotels/motels (which often have permanent residents).



***National Law Center Summary of the***  
**ST. PAUL, MINNESOTA**  
**LAND USE STUDY**  
**(CONTINUED)**

6) Limiting one type of adult use per building was justified by experience with two pre-existing "multi-functional" adult businesses, numerous studies by other cities, and St. Paul's own study in 1978, which documented significantly higher crime rates associated with two adult businesses in an area, and significantly lower property values associated with three adult uses in an area. The 1987 study included statistics showing that most "prostitution arrests in the city occur within four blocks on either side of the concentration of four adult businesses." Other problems included "the propositioning" and "sexual harassment of neighborhood women mistaken for prostitutes", "discarding of hard-core pornographic literature" ("which is "most strongly associated with adult bookstores") "on residential property where it becomes available to minors", a "generally high crime rate," and "a general perception" that such an area "is an unsafe place due to the concentration of adult entertainment that exists there". Redevelopment experience in St. Paul showed that adult use areas caused a "blighting influence inhibiting development". Multi-functional adult uses will attract more customers which "increases the likelihood that such problems will occur." A "Sex for Sale Image" attracts more street prostitutes and their customers, and demoralizes other businesses and neighborhood residents".

7) Amount of land available for 24 existing adult uses (which includes split-off of two multi-functional businesses with three-four types per business) was 6.5% of the City's total land mass, for a maximum of 44 sites based on "absolute site capacity", calculated without regard for existing infrastructure, or 28 sites based on "relative site capacity" on existing street frontage calculated without regard for existing development or suitability of land for development.

8) Annual review of the "Special Condition Use Permit" was included in the "Amendment" "to ensure that no additional uses are added to the type of adult use that is permitted."

9) Prohibition of obscene works and illegal activities was included in the "Amendment" to "guard against the conclusion that the Zoning Code permits activities which the City can and should prohibit as illegal."



***National Law Center Summary of the***  
**LAS VEGAS, NEVADA**  
**LAND USE STUDY**  
**DATED MARCH 15, 1978**

**OVERVIEW:** Prior to adopting a zoning ordinance for adult businesses, the City of Las Vegas conducted a survey of businesses, residences, and real estate brokers and agents. The results of the survey are included in this report. Also included in the report: minutes of the March 15, 1978, City Commission meeting on the matter of adding an adult business zoning chapter to the City code; an affidavit from Donald Saylor, Director of the Department of Community Planning and Development for Las Vegas, on the blighting effect of adult businesses; an affidavit from William Powell, Vice and Narcotics detective with the Las Vegas Metropolitan Police Department, on the link between a high concentration of adult businesses and an increase in criminal activity; and an affidavit from Donald Carns, professor of Sociology at the University of Nevada, Las Vegas, on the problems adult businesses pose for the economic well-being and vitality of a city.

**FINDINGS:** Among brokers and realtors, overwhelming majorities said that adult entertainment establishments had negative effects on the market value (82%), saleability/rentability (78%), and rental value (76%) of properties located near these establishments. According to 81%, there is a decrease in the annual income of businesses in the vicinity of adult establishments. Strong majorities reported that a concentration of adult businesses near other businesses (from under 500 feet to more than 1000 feet) has negative effects on market values, rental values, and rentability/saleability of residential property. Among surveyed homeowners and residents living near adult businesses, the consensus was similar: adult establishments have a negative effect on the 1) neighborhood; 2) business conditions (sales and profits) in the area (2-square block radius); and 3) value and appearance of homes in the vicinity (within 500 feet). Reportedly, 85% said that their normal living habits had been limited or hindered in some way due to the presence of adult businesses in the area. Among surveyed business owners and proprietors, the results were mixed. The majority of respondents did report that adult businesses had a negative effect on homes immediately adjacent to and in the area (500 feet or more) of adult businesses. A majority believed adult businesses had the following secondary effects: complaints from customers (66%), additional crime (58%), and deteriorated neighborhood appearance (58%). Finally, among residents living in areas not located near adult businesses, the consensus was clear: adult establishments have negative effects on neighborhoods, business conditions in the City, the value and appearance of homes, property values, the amount of crime, and resident transiency. These residents were nearly unanimous (96%) in the belief that their living habits had been limited or hindered by the operation of adult businesses.

**RECOMMENDATIONS:** Adult businesses should be prohibited from locating in residential areas. They should also be restricted to designated areas and dispersed throughout those designated areas. Adult businesses should be located at least 1000 feet from playgrounds, churches, schools, and parks.



***National Law Center Summary of the***  
**ELLICOTTVILLE, NEW YORK**  
**LAND USE STUDY**  
**DATED JANUARY, 1998**

**OVERVIEW:** On April 28, 1997, the Ellicottville Village Board of Trustees and Town Board placed a moratorium on approvals of new sexually-oriented establishments. There were four purposes for the move: 1) to allow the community time to study the effects of adult entertainment businesses; 2) "to determine if a regulatory response was necessary;" and 3) "if stronger land use controls were warranted to draft the regulatory changes for the legislative board's consideration." As there were no adult businesses in Ellicottville at the time of the study, the report cites secondary effects studies in other jurisdictions as a means of forecasting the effects of an Ellicottville adult business. The negative secondary effects examined included: economic impacts, property values, fear of crime, and negative impact on community character.

**FINDINGS:** Ellicottville is a community that relies upon attracting tourists. As such, "the atmosphere and aesthetic features of the community take on an economic value." Though active land use controls have been practiced to maintain the look and vitality of the community, currently there are no differentiations made between the regulation of an adult business and, say, a juice bar. To assess potential secondary effects, studies administered in other New York jurisdictions will be helpful. The 1994 NYC Adult Entertainment study found the following: adult businesses tend to cluster in certain areas, a rise in crime is linked to clusters of adult businesses, negative reactions toward adult businesses were common among adjacent business and home owners, isolation of adult businesses limited secondary effects, real estate brokers believe property values are negatively impacted by nearby adult establishments, and adult business signs are often larger and more graphic.

Allowing adult businesses to locate within the historic business district would negatively impact Ellicottville's efforts to provide a family-friendly community. Similarly, permitting adult businesses to locate near residences would have an eroding effect on "aesthetic qualities" and property values. The type of signage typically used by adult businesses would run counter to the business district. The following uses seemed most prone to negative secondary effects: the Ellicottville historic district, places of worship (6 churches in Ellicottville), the school, the child care facility, recreation parks/areas/playgrounds and public/civic facilities, and residential neighborhoods.

**RECOMMENDATIONS:** The Town and Village should adopt zoning regulations that create a land use category, and regulate adult establishment uses, allowing them to locate in industrial zones and the industrial-service commercial district. The establishment of adult businesses should be considered Conditional Uses (requiring approval of a special use permit). Exterior advertising, signs, and loudspeakers and sound equipment should be regulated. The following distance buffers should be set for: 500 feet (town) or 300 feet (Village) from residential areas; 1000 feet (town) or 500 feet (Village) from other adult businesses; and 500 feet (town and Village) from a church, school, day care center, park, playground, civic facility or historic resource. Definitions for adult uses should be added to existing zoning regulations.



***National Law Center Summary of the***  
**ISLIP, NEW YORK**  
**LAND USE STUDY**  
**DATED SEPTEMBER 23, 1980**

**OVERVIEW:** This report, compiled by Daniel Dollmann of the Islip Department of Planning, features an analysis of studies and ordinances from other jurisdictions, a case study of an adult business in Islip, research of public outcry against the establishment of adult businesses in Islip, and a survey by hamlet of adult entertainment businesses in Islip. The study includes a lengthy appendix with news articles detailing the history of the Islip zoning ordinance, letters of complaint from local residents, a historical perspective about the Detroit ordinance, copies of ordinances from other jurisdictions, and a copy of the proposed Islip zoning ordinance, reflecting the findings in this report.

**FINDINGS:** The study looks at the Detroit ordinance, upheld by the U.S. Supreme Court in 1976, which restricted sexually-oriented businesses (SOBs) from locating within 1,000 feet of other SOBs, and within 500 feet of residential areas. The Islip ordinance is modeled after the Detroit ordinance's approach to disperse SOBs ("anti-skid row") as opposed to creating a "combat zone," which was unsuccessfully attempted by the Town of Islip in 1975. The study notes that the ordinance incorporates "adults-only" definitions in an attempt to avoid First Amendment issues. In determining its distance requirement between adult businesses and sensitive uses, the Town of Islip took into consideration: distance requirements used in Detroit, MI, Norwalk, CA, Dallas, TX, Prince George's Co., MD, and New Orleans, LA zoning ordinances; it's own measurements on an Islip zoning map of several distance proposals; information from the local case study; and resident feedback. The study analyzes the problems unique to an area called Sunrise Highway (23% of businesses are adult) and compares the differences between Islip and Detroit, including population size and number of SOBs, to justify needs for greater distance limitations between SOBs.

One of the goals of the Town is to protect its historic downtown district and keep it from further deterioration (which occurred in the past due to an increase in multi-family dwellings, transients and bars). The Study noted that limiting SOBs to the Town's light industrial zone would be in keeping with this goal. Currently, there is a "dead zone" in one of the healthier parts of the downtown area due to two adult businesses located there.

The Study includes a case study of the Bohemia Book Store which was located extremely close to a residential area. In 1980 the store was temporarily closed down by court order, as a result of citizen picketing and subsequent violence against the picketers. The operators of this particular SOB were reported to have associations with organized crime (i.e., mob-operated national porno ring, multiple obscenity charges and convictions).

**RECOMMENDATIONS:** the proposed zoning ordinance requires 500 feet between an adult business and residential areas or other sensitive uses, like churches and schools, and a ½ mile distance between SOBs. The ordinance includes a waiver clause for certain conditions, and an amortization clause.



***National Law Center Summary of the***  
**NEW YORK CITY, NEW YORK**  
**LAND USE STUDY**  
**DATED NOVEMBER, 1994**

**OVERVIEW:** This study of the secondary impacts of adult entertainment uses on communities in New York City (NYC), prepared by the Department of City Planning (DCP), includes: a survey of studies in other jurisdictions, a description of the adult entertainment business in NYC, a review of studies previously done in NYC, a DCP survey of the impacts on NYC communities, and maps showing SOB locations.

**FINDINGS:** Recent trends in sexually-oriented businesses (SOBs) in NYC show a 35% increase over the last decade (75% of which were located in zoning districts that permit residences). However, since the survey for this information focused only on XXX video and bookstores, adult live or movie theaters, and topless or nude bars, this may be an underestimate of total SOB uses. Also in the past decade the availability of pornographic material has increased, the price has decreased greatly, and the image of nude bars has become more sophisticated or "upscale", contributing to the wide-spread availability of SOBs in NYC. SOBs have continued to concentrate in specific areas, specifically in three communities within Manhattan. Between 1984 and 1993: the concentrated areas of SOBs have nearly tripled; the number of SOBs has increased from 29 to 86 (74% of which were adult video stores – not included in the 1984 survey); adult theaters declined from 48 to 23, and topless/nude bars increased from 54 to 68 (54%).

After examining studies from other jurisdictions, this study concludes that the negative secondary impacts are similar in every jurisdiction, despite size of city, variations in land use patterns, and other local conditions. The study specifically examines the negative secondary impacts documented in Islip, NY, Indianapolis, IN, Whittier, CA, Austin, TX, Phoenix, AZ, Los Angeles, CA, New Hanover Co., NC, Manatee Co., FL, and MN, which evidenced problems with "dead zones", declining property values, high turnover rates in adjacent businesses, and higher sex crime rates. Various studies done on the City of New York (including Times Square) showed that concentration of SOBs had resulted in significant negative impacts, including economic decline, decreased property values, and deterrence of customers, and significantly increased crime incidence. Business owners strongly believed their businesses were adversely affected by SOBs. The DCP did its study in NYC boroughs where there was less concentration of SOBs. The negative impacts in these areas were harder to measure, but there was a definite negative perception among residents about the presence of SOBs. It has been shown that negative perceptions related to SOBs can lead to disinvestment and tendency to avoid shopping in adjacent areas – leading to economic decline. Residents reared potential proliferation of SOBs and the resultant negative impact on traditional neighborhood-oriented shopping areas. Eighty percent of real estate brokers surveyed responded that an SOB would have a negative impact on property values (consistent with a national survey). Residents were also concerned about exposure to minors of sexual images.

The DCP concluded that it would be appropriate to regulate SOBs differently from other commercial businesses, based on the significant negative impact caused by SOBs.



***National Law Center Summary of the***  
**TIMES SQUARE, NEW YORK**  
**LAND USE STUDY**  
**DATED APRIL, 1994**

**OVERVIEW:** The Times Square Business Improvement District (BID) conducted a study of the secondary effects of adult businesses on the Times Square area. Due to an increase in the number of adult use establishments from 36 in 1993<sup>1</sup> to 43 in 1994 the BID conducted this study to obtain evidence and documentation on the secondary effects of adult use businesses in the Times Square BID, and of their dense concentrations along 42nd Street and Eighth Avenue. The study was performed by combining available data on property values and incidence of crime, plus in-person and telephone interviews with a broad range of diverse business and real estate enterprises, including major corporations, smaller retail stores, restaurants, theatres and hotels, as well as with Community Boards, block associations, activists and advocates, churches, schools, and social service agencies.

**FINDINGS:** The study made the following four findings:

1) Surveys - All survey respondents voiced optimism about the future of Times Square, even as they bemoaned the increase of adult use establishments. Many respondents felt that some adult establishments could exist in the area, but their growing number and their concentration on Eighth Avenue constitute a threat to the commercial property and residential stability achieved in the past few years.

2) Crime - Although the study was unable to obtain data from before the recent increase in adult establishments and, thus, unable to show if there's been an increase in actual complaints, there were 118 complaints made to the police on Eighth Avenue between 45th and 48th compared to 50 on the control blocks on Ninth Avenue between 45th and 48th Streets. In addition, the study reveals a reduction in criminal complaints the further one goes north on Eighth Avenue away from the major concentration of these establishments.

3) Property Values - The rate of increase of total assessed values of the Eighth Avenue study blocks increased by 65% between 1985 and 1993 compared to 91% for the control blocks during the same period. Furthermore, acknowledging the many factors that lead to a property's increased value, including greater rents paid by some adult establishments, an assessment of the study blocks reveal that the rates of increases in assessed value for properties with adult establishments is greater than the increase for properties on the same blockfront without adult establishments.

4) Anecdotal evidence - Many property owners, businesses, experts, and officials provided anecdotal evidence that proximity to adult establishments hurts businesses and property values.

**CONCLUSION:** BID's findings support the results from other national studies and surveys. Adult use businesses in Times Square have a negative effect on property values, cause a greater number of criminal complaints, and have an overall negative impact on the quality of life for the residents and small businesses of Times Square.

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<sup>1</sup> This number is a great deal lower than the all time high of 140 in the late 1970s. During that time the Times Square area was referred to as a "sinkhole" by the (The Daily News, August 1<sup>4</sup>, 1975).



***National Law Center Summary of the***  
**NEW HANOVER CO., NORTH CAROLINA**  
**LAND USE STUDY**  
**DATED JULY, 1989**

**OVERVIEW:** This Planning Department report cites several studies and reports outlining adverse economic, physical, and social effects of adult businesses generally and specifically in jurisdictions across the country. While noting that New Hanover County does not currently have a noticeable problem with adult establishments, the report emphasizes the need to institute "preventative" zoning measures to protect and preserve the quality of life. It also offers an overview of common zoning approaches and the attendant constitutional issues.

**FINDINGS:**

- 1) Municipalities across the country have documented, both empirically and anecdotally, the adverse effects of adult businesses on property values, rental values, neighborhood conditions, and other commercial businesses in the immediate area.
- 2) Cities have documented a link between adult businesses and urban blight, increased traffic, and light and noise pollution.
- 3) Studies have linked concentrations of adult businesses to an increase in crime, specifically prostitution, drugs, assault, and other sex crimes.
- 4) Community reputations and general quality of life are also negatively impacted by the presence of adult businesses.
- 5) An adult bookstore has been closed and re-opened several times after raids by law enforcement authorities. It is also reported that a topless dancing establishment may be opened in the County.
- 6) New zoning regulations would control the establishment of adult businesses near churches, schools, and residential areas.

**RECOMMENDATIONS:** 1) New Hanover should adopt the dispersal (Detroit) zoning approach. 2) Adult businesses should not be permitted to locate within 1,000 feet of each other. 3) Adult businesses should not be permitted within 500 feet of any school, church, park, or residential zone. 4) Adult businesses should only be allowed to locate in designated business and industrial districts, and only by a special use permit. 5) Signs and displays used by adult businesses should be regulated to protect the public, especially teenagers and children, from exposure to obscene material ("any display, device or sign that depicts or describes sexual activities or specified anatomical areas should be out of view of the public way and surrounding property"). 6) The County Attorney's Office and Sheriff's Department should explore the viability of requiring licensing for adult businesses. 7) Definitions for "adult business establishments," "specified sexual activities," and "specified anatomical areas" should be added to the zoning ordinance.



*National Law Center Summary of the*  
**CLEVELAND, OHIO**

**LAND USE STUDY**

**DATED AUGUST 24, 1977**

**OVERVIEW:** This is a Cleveland Police Department report from Captain Carl Delau, commander of the City's vice and obscenity enforcement units and reported by him while he participated in a panel discussion at the National Conference on the Blight of Obscenity held in Cleveland July 28-29, 1977. The topic was "The Impact of Obscenity on the Total Community." Crime statistics are included for 1976 robberies and rapes. Areas evaluated were census tracts (204 in the whole city, 15 study tracts with sexually-oriented businesses). At the time of the study, Cleveland had 26 pornography outlets (8 movie houses and 18 bookstores with peep shows). their location was not regulated by city zoning laws.

**FINDINGS:** For 1976, study tracts had nearly double the number of robberies as the city as a whole (40.5 per study tract compared to 20.5 for other city tracts). In one study tract with five sexually-oriented businesses and 730 people, there were 136 robberies. In the city's largest tract (13,587 people, zero pornography outlets) there were only 14 robberies. Of the three tracts with the highest incidence of rape, two had sexually-oriented businesses and the third bordered a tract with two such businesses. In these three, there were 41 rapes in 1976 (14 per tract), nearly seven times the city average of 2.4 rapes per census tract.

**CONCLUSION:** "Close scrutiny of the figures from the Data Processing Unit on any and every phase of the degree of crime as recorded by census tracts indicates a much higher crime rate where the pornography outlets are located."



***National Law Center Summary of the***  
**OKLAHOMA CITY, OKLAHOMA**  
**LAND USE STUDY**  
**DATED MARCH 3, 1986**

**OVERVIEW:** This study contains the results of a survey of 100 Oklahoma City Real Estate Appraisers. Appraisers were given a hypothetical situation and a section to comment on the effects of sexually-oriented businesses in Oklahoma City. The hypothetical situation presented a residential neighborhood bordering an arterial street with various commercial properties which served the area. A building vacated by a hardware store was soon to be occupied by an "adult" bookstore. No other sexually-oriented businesses were in the area and no other vacant commercial space existed. With less than a one month response time, 34 completed surveys were received by the city.

**FINDINGS:** 32% of the respondents said that such a bookstore within one block of the residential area would decrease home values by at least 20%. Overwhelmingly, respondents said an "adult" bookstore would negatively effect other businesses within one block (76%). The level of depreciation is greater for residents than businesses. The negative effects on property values drop sharply when the sexually-oriented business is at least three blocks away. In the subjective portion, 86% of the respondents noted a negative impact of sexually-oriented businesses on Oklahoma City. Frequent problems cited by the appraisers included the attraction of undesirable clients and businesses, safety threats to residents and other shoppers (especially children), deterrence of home sales and rentals, and immediate area deterioration (trash, debris, vandalism).

**CONCLUSIONS:** Oklahoma City's findings supported results from other national studies and surveys. Sexually-oriented businesses have a negative effect on property values, particularly residential properties. The concentration of sexually-oriented businesses may mean large losses in property values.



***National Law Center Summary of the***  
**OKLAHOMA CITY, OKLAHOMA II**  
**LAND USE STUDY**  
**DATED JUNE 1992**

This study, written by Jon Stephen Gustin, a retired sergeant for the Oklahoma City Police Department, examines a history of the successful abatement of sexually-oriented businesses (SOBs) in Oklahoma City between 1984 - 1989, which ultimately reduced an alarmingly high crime rate in the city, which is one of many harmful secondary effects related to the operation of SOBs in the community.

This study indicates that in the early 1980's there was a large growth of SOBs in Oklahoma City in conjunction with a boom in the oil industry resulting in a large influx of oil field workers in the area. Houses of prostitution, nude bars and adult theaters spread throughout the city. SOB promoters and entrepreneurs from around the country came to the area to compete for their share in the market. By 1984, over 150 SOBs and an estimated 200 prostitutes operated in the city. SOB owners competed by using more and more blatant signs and advertising. As a result, the city experienced epidemic proportions of crime problems associated with the SOBs. Citizens began to voice concerns over the decay of community moral standards, the increased crime rate, and decreased property values.

Although Oklahoma City had a history of unsuccessful prosecution of cases related to pornography, prostitution, and related SOBs, public pressure from citizens and elected officials ultimately resulted in support by the Chief of Police, the City Council and the city's District Attorney to prosecute SOBs that were in violation of the law. Abating prostitution and related businesses was the first priority. The media aided this effort by publishing names of arrested customers and prostitutes, and airing live coverage of arrests and raids. This bolstered citizen support of police and prosecutors.

At adult bookstores and peep booths arrests were made for customers propositioning undercover officers to engage in sex acts, for the sale and possession of pornography, the display of pornography and for health department violations (including seminal fluids on the walls and floors of peep show booths). [Note that the author uses the term "pornography" referring to illegal pornography, also known as "obscenity."]

The city next focused on prosecution for violations at nude and semi-nude dance bars, where customers engaged in sexual favors with nude employees in exchange for the purchase of expensive cocktails. Repeated arrests in these bars forced them into compliance, causing a lack of customer support. Simple arrests at escort services, which were organized fronts for prostitution, did little to abate the illegal activity. Therefore, police worked undercover, arresting solicitors of the service. Also an attempt was made to prohibit businesses that had been convicted on prostitution charges from having access to phone service.

As a result of the aggressive arrest and prosecution efforts, only a handful of the original 150 SOBs remained by early 1990. All remaining SOBs operated within statutory guidelines. It has been documented that incidents of reported rape in Oklahoma City decreased 27% during that period, while it increased 16% in the rest of the state. In 1983 nearly one-half of the rapes in Oklahoma occurred in Oklahoma City, decreasing to one-third by 1989. This is an example of the benefits of stringent enforcement and prosecution of the so called "victimless crimes" associated with SOBs.



***National Law Center Summary of the***  
**HAMILTON COUNTY AND**  
**CITY OF CHATTANOOGA, TENNESSEE**  
**LAND USE STUDY**  
**DATED MAY 1997**

**OVERVIEW:** The Community Protection Committee, established by County Resolution 794-18, undertook a 2 ½ year study of vice-related laws and law enforcement activities in Hamilton County, Tennessee. The mission of the Committee was the renewal of efforts to protect children and families, relating to public health and safety. Members of the Committee represented the Hamilton County Executive, the Board of Commissioners, the Mayor of Chattanooga, and the Chattanooga City Council. The resolution requested that all federal, state and local law enforcement agencies and legislature renew their commitments to enforcing existing vice-related laws, and enacting necessary legislation. In 1996, the Committee met bi-monthly to hear national and local experts and law enforcement officials. They finished preparing recommendations in December 1996 and presented the full report in May 1997.

**SUMMARY OF THE REPORT:** In preparing and researching for this report the Committee operated from the following questions: is the presence of vice related activity harmful to the community? If so, how does it harm the community? The Committee first focused on “prostitution” and “pornography” along with the corresponding “harmful effects on the community, finding that prostitution posed a danger to Chattanooga and Hamilton County.

The report found that prostitution is extremely dangerous to public health, primarily due to the spread of STDs, which currently infect one in five Americans. In Chattanooga, four people control all the escort services, which serve as a front for prostitution. The report cited statistics for Shelby County, TN, including 33% of all prostitutes jailed in 1990 tested positive for VD, and 13% of all prostitutes jailed tested positive for HIV, (all dying within 3-5 years at an estimated cost of \$500,000 per person, at tax payer expense). In one topless club 8 out of 9 female employees tested positive for VD.

Other issues researched in the report include:

- addiction to obscenity and the danger it poses to Hamilton County (i.e. promoting violence and perpetuating the “rape myth”);
- victims of the sex business (Performers - often runaway, drug-using girls from abusive backgrounds that are lured into stripping by promise of more money, then abused further by patrons; and Customers – addiction to pornography can produce aggression, depression, debt, and eventually, loss of family);
- the harm of pornography on children (the 12-17 yr. old male is the largest group of consumers of pornography; early exposure to porn related to greater involvement in deviant sexual practices; pedophiles use porn to molest children; in Hamilton County there were 585 cases of child molestation reported in 1994; the cost to Hamilton County to counsel sexually abused children in 1994 was over \$1.5 Million; child molesters report from 30-60 victims each before arrested the first time);



***National Law Center Summary of the***  
**HAMILTON COUNTY AND**  
**CITY OF CHATTANOOGA, TENNESSEE**  
**LAND USE STUDY**  
**(CONTINUED)**

- the relationship of pornography and organized crime (organized crime has historically been involved in 95% of the adult business establishments);
- the harmful secondary effects of sex businesses on the community (including increased crime, good businesses abandoning area, reduced property values, eroded tax base, and lost revenue for law enforcement);
- a look at the what the law allows regarding the regulation of pornography and the establishing of a “Community Standard”;
- an examination of the positive results from enforcement of zoning and obscenity laws (specifically looking at Oklahoma City, OK which strictly enforced obscenity during the late 1980s and experienced a 27% drop in the rape rate over 6 years);
- an assessment of law enforcement manpower and training necessary to be effective;
- analysis by Bruce Taylor (NLC) of related TN statutes that need to be amended or enacted by the State legislature to protect children and families from pornography-related vice crimes (i.e. making wholesaling a felony).

RECOMMENDATIONS: The Committee’s recommendations included:

(1) Hamilton County - adopting a zoning ordinance to regulate SOBs; imposing reasonable gross receipt taxes on SOBs to fund additional enforcement; appropriating funds for a Special D.A. expert in prosecuting obscenity; developing a computer network in the Sheriff’s department to track child sex abuse and obscenity cases; enforcing TN State law requiring persons arrested for prostitution to be tested for STDs; and establishing a committee to assist in the implementation of these recommendations.

(2) Hamilton County Sheriff’s Department and Chattanooga Police Department - establishing a child sex abuse task force; educating the public about the relationship between child sex abuse and pornography.

(3) City of Chattanooga - strengthening zoning laws; continuing dispersement policy, which prohibits SOBs from clustering; revoking certain grandfather clause protections; hiring additional vice officers (currently only one officer); and regulating SOBs from locating within 500 feet of a business selling alcohol.

(4) Small Communities within Hamilton County – enacting SOB zoning laws to limit location of SOBs in the smaller communities; closely tracking child sex abuse and obscenity cases with Hamilton County Sheriff’s Department.

(5) State of Tennessee – strengthening the State’s Public Indecency and Obscenity laws; encouraging an officer exchange program to assist with local enforcement; encouraging Tennessee Bureau of Investigation to review organized crime activities and connections to the sex industry across the State; enacting legislation making it a felony for an adult to solicit sex from a minor, or to use pornography to solicit sex from a minor; enacting legislation giving local governments authority to restrict SOB operating hours; and revoking applicable licenses if an SOB sells pornography to a minor.



***National Law Center Summary of the***  
**AMARILLO, TEXAS**  
**LAND USE STUDY**  
**DATED SEPTEMBER 12, 1977**

**OVERVIEW:** This Planning Department report cites several sources including national news magazines, "adult business" ordinances from other cities, an American Society of Planning Officials report and pertinent Supreme Court decisions. Lengthy explanation of the *Miller* test (with legal definitions), discussion of *Young v. American Mini Theatres*, and a comparison of the Boston and Detroit zoning models are included. The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. (At the time, Amarillo had 3 such theaters and 4 bookstores with space for such publications).

**FINDINGS:** The police department provided an analysis showing that areas of concentrated "adult only" businesses had 2 1/2 times the street crime as the city average. The Planning Department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by 1) noise, lighting and traffic during late night hours 2) increased opportunity for street crimes and 3) the tendency of citizens to avoid such business areas. The study noted that lack of zoning regulations would lead to concentrations of sexually-oriented businesses (causing increased crime) or more such establishments locating near residential areas or family and juvenile oriented activity sites (churches, parks, etc.)

**RECOMMENDATIONS:** 1) Adult businesses locate 1,000 feet from each other. No recommended distance was specified from residential zones or family/juvenile activities. 2) City development of an amortization schedule and permit/licensing mechanism. 3) City regulation of signs and similar forms of advertising. 4) Vigorous enforcement of State Penal Code, especially relating to "Harmful to Minors." 5) City amendments prohibiting minors from viewing or purchasing sexually-oriented materials (enforced physical barriers).



***National Law Center Summary of the***  
**AUSTIN, TEXAS**  
**LAND USE STUDY**  
**DATED MAY 19, 1986**

**OVERVIEW:** The report was the basis for developing an amendment to existing sexually-oriented business ordinances. At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars. The study examined crime rates, property values, and trade area characteristics.

The report focused on sexually related crimes in four study areas (with sexually-oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually-oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or listing firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

**CRIME:** Sexually related crime ranged from 177-482% higher in the four study areas than the city average. In the two study areas containing two sexually-oriented businesses, the rate was 66% higher than in the study areas with one such business. All control areas had crime rates near the city average.

**REAL ESTATE:** 88% said that a sexually-oriented business within one block of a residential area decreases the value of the homes (33% said depreciation would be at least 20%). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90-95% financing most home buyers require. They said commercial property is also negatively effected by such businesses.

**TRADE AREA CHARACTERISTICS:** Of 81 license plates traced for owner address, only 3 lived within one mile of the sexually-oriented business. 44% were from outside Austin.

**RECOMMENDATIONS:** 1) Sexually-oriented businesses should be limited to highway or regionally-oriented zone districts. 2) Businesses should be dispersed to avoid concentration. 3) Conditional use permits should be required for these businesses.



*National Law Center Summary of the*  
**BEAUMONT, TEXAS**  
**LAND USE STUDY**  
**DATED SEPTEMBER 14, 1982**

**OVERVIEW:** This report by the city Planning Department encourages amendments to existing "adult business" ordinances to include eating or drinking places featuring sexually-oriented entertainment (strippers, etc.). Zoning laws required "adult uses" to locate 500 ft. from residential areas; 300 ft. from any other adult bookstore, adult theater, bar, pool hall or liquor store; and 1,000 feet from a church, school, park, or recreational facility where minors congregate.

**CRIME:** Police verified that bars, taverns, and lounges (especially those with sexually-oriented entertainment) are frequent scenes of prostitution and the sale/use of narcotics. On the whole, all criminal activity was higher at sexually-oriented businesses.

**RECOMMENDATIONS:** 1) Add eating/drinking places that exclude minors (under Texas law), unless accompanied by a consenting parent, guardian or spouse. 2) Require specific permits for areas zoned as General Commercial-Multiple Family Dwelling Districts. 3) Reduce the required distance of sexually-oriented businesses from residential areas, schools, parks, and recreational facilities from 1,000 to 750 ft.



*National Law Center Summary of the*  
**CLEBURNE, TEXAS**

**LAND USE STUDY**

**DATED October 27, 1997**

**OVERVIEW:** This is a report by Regina Atwell, City Attorney for the City of Cleburne, Texas, on how and why the city organized a joint, county-wide sexually-oriented business (SOB) task force. The purpose of this report is to educate and provide assistance to other jurisdictions on what the author considers important aspects of organizing, drafting and adopting an SOB ordinance or amendment to an SOB ordinance. In the introduction, Ms. Atwell cautions that although SOBs now appear more sophisticated and have begun to integrate into the mainstream, the secondary effects of these businesses are still harmful to the community. She offers a set of questions to help assess a local government's needs to enact or update its SOB ordinance. Also, she gives a brief legal history of zoning regulations for SOBs.

**ORDINANCE ENACTMENT:** The City of Cleburne decided to update its existing SOB ordinance in response to plans by Houston and Dallas to revise their SOB ordinances, as well as related concerns that Dallas-Ft. Worth SOBs might subsequently infiltrate the Cleburne area. After learning that the County did not have an SOB ordinance, county officials and officials from all cities in the county were invited to appoint task force members to join the Cleburne's SOB Task Force. Due to an excellent response from the county and many cities within the county, a Joint County-Wide SOB Task Force was formed, realizing that a united stand on this issue was imperative.

After researching the law, consulting experts, examining sample ordinances from other jurisdictions, thoroughly investigating SOBs and their negative secondary effects on the community, and deciding which time/place/manner regulations were most appropriate to protect the governmental interests of their area, the Joint Task Force presented a draft of an SOB Ordinance to their city and county officials. For all its functions, the Task Force relied on the following guidelines: (1) Drafting an ordinance is done by the city planning office, the city attorney and the ordinance review committee, in reliance on case studies discussing secondary effects of SOBs. It is important that the actual studies be presented to legislators; (2) Public hearings should be held to discuss the ordinance and a legislative record created to preserve testimony, studies, maps, and other evidence; (3) Draft a good "Preamble" indicating the council's concern with secondary effects of SOBs; (4) Keep legislative record clean from any suggestions that impermissible motives have influenced the legislative process; (5) Be sure the ordinance allows reasonable "alternative avenues of communication" for SOBs to locate, and include zoning maps with measurements and available sites for the record; and (6) If interested in enacting a licensing ordinance, be sure that it is narrowly drawn to serve legitimate state interests without restricting 1A speech of SOBs. The report also gives extensive tips for how to hold public hearings.

**CONCLUSIONS:** Regulation of SOBs, including licensing, was necessary to combat the detrimental effects of SOBs, including high crime rate, depreciated property values, and spread of communicable diseases. In addition, the Task Force recommended enforcement of public nuisance laws, diligent prosecution of obscenity and sexual offense cases, and specialized training for local police and sheriffs.



## *National Law Center Summary of the*

### **DALLAS, TEXAS**

#### **LAND USE STUDY**

**DATED APRIL 29, 1997**

This study, which is an update of a December 14, 1994 report prepared by The Malin Group, analyzes the effects of sexually-oriented businesses (SOBs), specifically those that offer or advertise live entertainment and operate as an adult cabaret, on the property values in the surrounding neighborhoods. The study concludes that there is a much greater impact on the surrounding neighborhoods when there is a high concentration of these businesses in one locale.

The study found that the presence of an SOB in an area can create a "dead zone" which is avoided by shoppers and families with children that do not want to be in areas that also have adult uses. Also, the late hours of operation combined with loitering by unsavory people in the area where SOBs are located, appear to lead to higher crime in the area. In fact, a look at police calls for service over a four year period (1993-1996) shows that SOBs were a major source of the calls. One area averaged more than one call to police per day, where there was a concentration of seven SOBs. In that same area there was a much higher incidence of sex crime arrests than in similar areas with none or fewer SOBs.

This study applied the conclusions of several other studies completed by New York, Phoenix, Indianapolis, Austin, and Los Angeles, finding that the methodology used was appropriate and the conclusions were sound. This study concludes that the finding in these other studies would not be any different in Dallas. The studies found that SOBs have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of life. In addition, real estate brokers interviewed in the Dallas area reported that SOBs are "perceived to negatively affect nearby property values and decrease market values." There were similar results from surveys taken in New York City and a national survey completed in Indianapolis and Los Angeles. The study also showed that community residents were concerned that the business signs used by SOBs were out of keeping with neighborhood character and could expose minors to sexual images. In areas where SOBs were concentrated, the signs were larger more visible and more graphic, to compete for business.

The study shows that a concentration of SOBs has a higher negative impact on the surrounding communities than an area with one isolated SOB. When concentrated, SOBs tend to be a magnet for certain businesses such as pawn shops, gun stores, liquor stores, etc., while driving away more family-oriented businesses. It can be harder to rent or sell vacant land in areas where SOBs are located. In fact, the negative perceptions associated with these areas have a significant impact on declining property values, even where other negative effects of SOBs are difficult to measure. Interviews with owners of commercial property near SOBs confirmed that the loss of property value manifested in a variety of ways, including: increased operating costs, like additional security patrols, burglar alarms, and trash cleanup; properties selling at much lower sales prices; and extreme difficulty in leasing properties. Owners thought that if the SOBs were gone, their property values would increase.



## *National Law Center Summary of the*

### **EL PASO, TEXAS**

### **LAND USE STUDY**

**DATED SEPTEMBER 26, 1986**

**OVERVIEW:** This study done by the Department of Planning, Research and Development, the City Attorney's Office, the Police Department Data Processing Division, and New Mexico State University involved one year of studying the impacts of SOBs on the El Paso area. A separate report by the New Mexico State University on perceived neighborhood problems is also included. The study is in response to resident concern about the negative impacts resulting from the significant growth in SOBs over the past ten years. The study results show that SOBs are an important variable in the deviation from normal rates for real estate market performance or crime. Also included in the study are detailed maps showing the locations of SOBs in El Paso and within the selected study areas.

**FINDINGS:** In studying the impacts caused by SOBs, three study areas (with SOBs located in the area) and three control areas (similar areas in size and population, but without SOBs) within El Paso were identified and studied. Using the results of the study areas and the attitudes of the residents living near SOBs, the study concluded that the following conditions existed within the study areas: (1) the housing base within the study area decreases substantially with the concentration of SOBs; (2) property values decrease for properties located within a 1-block radius of SOBs; (3) there is an increase in listings on the real estate market for properties located near SOBs; (4) the presence of SOBs results in a relative deterioration of the residential area of a neighborhood; (5) there is a significant increase in crime near SOBs; (6) the average crime rate in the study areas was 72% higher than the rate in the control areas; (7) sex-related crimes occurred more frequently in neighborhoods with even one SOB; (8) residents in the study areas perceived far greater neighborhood problems than residents in control areas; (9) residents in study areas had great fear of deterioration and crime than residents in control areas.

The study of perceived neighborhood problems done by the New Mexico State University revealed strong concern by residents of the impact of SOBs on children in the neighborhood. In addition, some respondents told survey interviewers they feared retaliation from SOBs if they gave information about problems related to SOBs. Overall, this survey showed a strong, consistent pattern of higher neighborhood crime, resident fear and resident dissatisfaction in the neighborhoods containing SOBs.

**RECOMMENDATIONS:** The main recommendations included that a zoning ordinance be adopted with distance requirements between SOBs and sensitive uses, that a licensing system be established, that annual inspections be required, that signage regulations be established, and that a penalty/fine section be included for violations.



***National Law Center Summary of the***  
**HOUSTON, TEXAS**  
**LAND USE STUDY**  
**DATED NOVEMBER 3, 1983**

**OVERVIEW:** Report by the Committee on the Proposed Regulation of Sexually-Oriented Businesses determining the need and appropriate means of regulating such businesses. Four public hearings provided testimony from residents, business owners, realtors, appraisers, police, and psychologists. The committee and legal department then reviewed the transcripts and drafted a proposed ordinance. More hearings obtained public opinion on the proposal and the ordinance was refined for vote by the City Council.

**TESTIMONY:** The testimony was summarized into six broad premises: (1) The rights of individuals were affirmed. (2) Sexually-oriented businesses can exist with regulations that minimize their adverse effects. (3) The most important negative effects were on neighborhood protection, community enhancement, and property values. (4) Problems increased when these businesses were concentrated. (5) Such businesses contribute to criminal activities. (6) Enforcement of existing statutes was difficult.

**ORDINANCE:** (1) Required permits for sexually-oriented businesses (non-refundable \$350 application fee). (2) Distance requirements: 750 ft. from a church or school; 1,000 ft. from other such businesses; 1,000 ft. radius from an area of 75% residential concentration. (3) Amortization period of 6 months that could be extended by the city indefinitely on the basis of evidence. (4) Revocation of permit for employing minors (under 17), blighting exterior appearance or signage, chronic criminal activity (3 convictions), and false permit information. (5) Age restrictions for entry.



***National Law Center Summary of the***  
**HOUSTON, TEXAS II**  
**LAND USE STUDY**  
**DATED JANUARY 7, 1986**

OVERVIEW: This is a Legislative Report prepared by the Committee on the Regulation of Sexually-Oriented Businesses for the Houston City Council. This report was prepared to explain to the members of City Council, and to the public, why the Committee has recommended certain amendments to the "original ordinance." History behind the ordinance includes the formation by the Mayor of a committee of Council Members to determine the need for regulation of sexually-oriented businesses in Houston. This was in response to growing community concern over the proliferation of SOBs. After public hearings, the Legal Department reviewed testimony and research on the subject. A final version of the "original ordinance" was adopted in December 1983.

The Committee reconvened in 1985 to revisit several possible changes in the SOB ordinance, including whether *SOBs licensed to sell alcohol* should be subject to the distance provisions of the ordinance. Originally it appeared that State law preempted municipalities from regulating SOBs that sold alcoholic beverages. But in 1985 the Texas Legislature enabled municipalities to regulate businesses selling alcohol. The Committee also wanted to consider amendments regarding consolidating administrative responsibility for enforcement of the ordinance, and review possible procedural changes that would expedite and strengthen enforcement.

FINDINGS & CONCLUSIONS: The Committee found that the feedback from the hearing was similar to that received when passing the "original ordinance." Therefore the Committee reaffirmed those findings, including: (a) that SOBs have a substantial negative impact on their surrounding neighborhoods by adversely affecting area security, property values, potential for economic development, general quality of life, suitability for family activities, and stability of the neighborhood environment; (b) that problems created by SOBs increase in intensity if clustered together; and that it is reasonable to restrict exterior signage and features to protect properties in the vicinity; and finally, (c) that SOBs are likely contributory factors to criminal activities in and around the premises.

Additional findings and conclusions for the current amendments included: (a) that the proliferation of SOBs selling alcohol contributed to the City's difficulties in economic development (expert testimony explained that Houston had a "bad reputation," making it difficult to persuade employees to move and live there); (b) that all SOBs have adverse impacts on stability and attractiveness for investment in neighborhoods, whether residential or mixed use; (c) that the "original ordinance" had a substantially positive impact on encouraging neighborhood stability and economic development, as well as lowering the incidents of crime (prostitution, drug sales) and substantial traffic jams related to clustering of SOBs; (Example: A 10-block span on Westheimer Road had a cluster of 14 SOBs and suffered from tremendous amounts of criminal activity associated with them. The passing of the "original ordinance" served as an impetus for the area turning around. Today only there are only 4 SOBs and new economic development is occurring.); (d) that applying the existing distance requirements to SOBs that serve alcohol would not unduly, unfairly or improperly limit the ability of SOBs to locate within Houston, according to a study and testimony by a member of the Planning and Development Department; (e) that continuing an amortization provision instead of grandfathering in the existing SOBs selling alcohol



***National Law Center Summary of the***  
**HOUSTON, TEXAS II**  
**(CONTINUED)**

would be more effective, since there was recourse for those businesses showing they could not reasonably recoup their investment within the allotted 6-month amortization period; and (f) that testimonies of committee members and the Police Department Vice Squad revealed inadequacies and inconsistencies within the permitting and enforcement process that needed to be addressed.

**RECOMMENDATIONS:** The Committee recommended that (1) SOB's selling alcohol be included under the same distance limitations of the "original ordinance"; (2) that the principal responsibility for overseeing the permitting process be transferred from the Department of Finance and Administration to the Police Department; (3) that the processes for enforcement of the amended ordinance be streamlined; and (4) that licensed day care centers be added to churches and schools as a protected category.



***National Law Center Summary of the***  
**HOUSTON, TEXAS III**  
**LAND USE STUDY**  
**DATED JANUARY 7, 1991**

**OVERVIEW:** This is a Legislative Report prepared by the Committee on the Regulation of Sexually-Oriented Businesses for the Houston City Council. This report was prepared and adopted by the City Council as part of the legislative record regarding proposed legislation to include adult bookstores and movie theaters within the ambit of the Houston City SOB Ordinance and to amend certain permit procedures. This report is intended to supplement the 1986 report issued when the City adopted an amendment to regulate premises serving alcoholic beverages (i.e. topless bars). All of the above amendments were based on changes in the Texas state enabling statute. This report relies in part on evidence gathered in 1983 and 1986 relating to adult bookstores and movie theaters.

**FINDINGS:** The Committee held several hearings regarding the secondary effects of adult bookstores and movie theaters on surrounding communities. The committee heard from expert witnesses, including representatives from the police department, real estate appraisal experts, local political scientists, and dozens of citizens. The overwhelming consensus of the evidence received indicated that adult bookstores and movie theaters exert the same sorts of impacts upon surrounding communities as other forms of adult uses currently regulated. The impacts included: reduction in property values, dehumanizing impact upon nearby social institutions (i.e. churches, schools, etc.) de-stabilization of community character, and psychological concerns regarding exposure to children. These findings were the basis for the Committee to begin formal consideration of regulating adult bookstores and movie theaters.

**CONCERNS & RECOMMENDATIONS:** The Committee had concerns about whether the change to the ordinance would require a revision in existing distance limitations (750 feet from sensitive uses and 1000 feet from other SOBs). It concluded that leaving the distance requirements the same would still allow more than an adequate number of sites for SOBs to locate. A one-time grandfathering provision would be available to those existing SOBs that could not quite comply with the 1000-ft requirement from other SOBs, but complied with all other locational requirements.

The Committee considered various revisions of the permit provisions to fix minor administrative problems raised by the Police Department, including sites applied for but not used, time extensions for signage issues, appeals, relocation, subdivision of property, compliance and "use of pasties", and miscellaneous areas of conformity with court decisions and city code.

The Committee considered addressing perceived loopholes in the ordinance that seemed to allow SOBs to achieve conspicuous exterior signage and premises, negatively affecting the surrounding community. However, conflicting public response to proposed amendments resulted in the Committee delaying any amendments on this issue till a future date.

**HOUSTON, TEXAS III**  
**(CONTINUED)**



## ***National Law Center Summary of the***

The Committee considered whether to add exposure of "male breasts" to the definition of "Specified Anatomical Areas", because of a Texas Supreme Court case examining this issue in light of Equal Rights. However, the Committee decided not to amend the ordinance based on expert testimony and lack of probative evidence based on actual experience in local SOBs that exposure to male breasts was considered sexually arousing.

At the second public hearing, which was poorly attended except for a few SOB business representatives, the Committee addressed various issues raised, including questions about amortization that the ordinance was being used to put SOBs out of business. The Committee maintained that the 6-month amortization was reasonable, given that extensions could be granted in certain circumstances. Also, the Committee affirmed that the ordinance does not regulate the substance of the speech, but only serves to minimize the secondary effects of adult uses on the community by addressing location, appearance, signage and related matters regarding SOBs.

**CONCLUSIONS:** The Committee recommended the ordinance as a logical step to complete the scope of the City's land use controls for adult uses.

## **HOUSTON, TEXAS IV LAND USE STUDY DATED JANUARY 7, 1997**



## *National Law Center Summary of the*

**OVERVIEW:** This is a summary of a legislative report prepared by the Sexually-Oriented Business Revision Committee for the Houston City Council, analyzing the strengths and weaknesses of the City's current SOB ordinance, and making recommendations for amendments and additions principally pertaining to employee licensing, lighting configurations, location requirements, prohibition of "glory holes," elimination of closed-off areas, public notification of SOB applications, clear lines of vision inside SOBs, and dancer "no-touch" policies. This report summary includes discussion of prior regulation efforts, testimony by HPD Vice Department, citizen correspondence, industry memos, legal research, and summaries of public testimony.

**SUMMARY:** This study was a result of increasing community concern over increasing proliferation of SOBs under the existing SOB ordinance and the HPD's need for better control over increasingly repetitive serious violations at numerous SOBs. The Committee made the following findings: (1) Due to criminal activity associated with SOBs, licenses should be required for all SOB employees (requiring criminal background investigations); (2) There are obstacles to successful enforcement of public lewdness, prostitution, indecent exposure, and other criminal activities (i.e. entertainers can detect when a patron is an undercover cop); (3) "Glory holes" between enclosed booths promote anonymous sex and facilitate the spread of disease, so prohibition of these openings was recommended; (4) The lack of a clear line of vision between manager's stations and booths or secluded areas (VIP rooms) encourages lewd behavior and sexual contact (also difficult to observe during inspections); (5) Multi-family tracts were being counted as one tract, so new formula devised based on homeowners' property size; (6) Inadequate lighting in SOBs makes it difficult for SOB managers and police to monitor illegal activities, so minimum requirements for "exit" signs in Uniform Building Code was suggested; (7) Locked rooms within SOBs are usually fronts for prostitution, so prohibition of enclosed rooms recommended; (8) Public and expert testimony requested the inclusion of "public parks" as a sensitive use in the zoning location ordinance; (9) Repeated testimony requested notification to public regarding pending SOB permits, so posting of a sign notifying of pending permit was required; and (10) Continuing amortization provisions was preferable to grandfathering in those SOBs not in compliance with the amended ordinance (i.e. 6 months plus extensions for recouping investment).

**CONCLUSIONS:** The Committee concluded that strengthening the ordinance would achieve expedited revocation process, accountability to SOB employees through licensing, aid to police investigations by improved lighting and configurations, protections to the community by increasing distance requirements, and reduction of disease from anonymous spread by eliminating "glory holes."



***National Law Center Summary of the***  
**NEWPORT NEWS, VIRGINIA**  
**LAND USE STUDY**  
**DATED MARCH, 1996**

**OVERVIEW:** As of November, 1995, there were 31 "adult use" establishments: 14 "adult entertainment" establishments ("exotic dancing girls", "go-go" bars, "gentlemen's clubs", etc.); 8 "adult book/video stores" (outlets selling and renting pornographic magazines, videos, and sex devices); and 9 night clubs (music, dancing, or other live entertainment). Of the 31 uses, 17 are in the General Commercial zone, 5 in the Regional Business District zone, 7 in the Retail Commercial zone, and 2 are in the Light Industrial zone. They are dispersed along two streets with a few clusters. A proposed ordinance would require "adult uses" to be 500 feet from other "adult" uses and to locate at least 500 feet away from sensitive uses (churches, schools, homes, etc.), with no distance limits in the downtown zone.

**CRIME:** The Police Department researched calls for police responses to the 31 businesses, by address, for the period of January 1, 1994, to October 31, 1995, with a cross-check to assure accuracy of the calls to the correct address. The effects of concentrations of "adult uses" were also checked by comparing study areas with control areas. Study area 1, with 4 "adult" uses, had 81% more police calls than nearby control area 1. When adjusted for population differences, the study area had 57% higher police calls and 40% higher crimes than the control area. For the 31 sexually-oriented businesses, there were 425 calls of those: 65% were to strip clubs and go-go bars, averaging 23 calls per "adult entertainment" business; night clubs had 30% of the calls, averaging 14 calls per business; and "adult" bookstores and video stores had 4%, averaging 2 calls per business; . The reasons for the calls included: 25 assaults; 18 malicious destructions of property; 39 intoxications; 60 fights; and 151 disorderly conduct incidents. A selected list of restaurants with ABC licenses averaged 11 calls for service during the same period. One particular downtown "adult entertainment" establishment had 116.7 "police calls per 100 occupancy" compared to a regular restaurant, non-adult use, located across the street, with 50 calls per 100 occupancy.

**MERCHANTS/REAL ESTATE:** A very high percentage of realtors indicated that having "adult uses" nearby can reduce the number of people interested in occupying a property by 20 to 30%; would hurt property values and resale of adjacent residential property. Realtors expressed concern for personal safety, increased crime, noise, strangers in the neighborhood, and parking problems. Merchants associations surveyed supported strengthening the city's regulations of "adult uses" and expressed a common concern that additional "adult uses" would contribute to deterioration of their areas.



***National Law Center Summary of the***  
**BELLEVUE, WASHINGTON**

**LAND USE STUDY**

**DATED FEBRUARY, 1988**

**OVERVIEW:** This is a compilation of materials prepared for the City Council Members of Bellevue, Washington for use in enacting an SOB zoning ordinance. The study includes general information about regulation of SOBs, secondary impacts from SOBs, experiences from nearby communities, description of Bellevue's current situation, and recommendations for appropriate forms of regulation of SOBs within Bellevue. Also included is a bibliography of land use studies, articles, correspondence and reference materials from adjacent municipalities made available for council members' use. Minutes from two public hearings about regulation of SOBs, maps showing the location of current SOBS, and memos from the planning department are also included.

**FINDINGS:** The study begins by explaining the legal basis history behind regulating SOBs. Existing provisions in the State and local codes relating to obscenity or licensing are mentioned. The study notes that the goal of regulating SOBs is to mitigate the secondary impacts of these uses in the communities. It concludes that the implications of the data and experience studied in other jurisdictions are significant to Bellevue. It discusses the link between crime rates and areas with concentrations of SOBs, as revealed by police research, noting the "skid row" effect that occurred in Detroit, and the higher percentages of crime documented in Cleveland (in the 1970's), and other cities. The study noted that while police crime statistics showed a strong connection between criminal activity and some adult uses, there is no clear consensus (in psychological studies) that exposure to pornography causes criminal behavior. The study also discusses the impact to property values. It notes a Kent survey of real estate appraisers that revealed an overall consensus that the impact on residential property values is probably negative. In Bellevue, the three existing SOBs are widely dispersed and centrally located in commercial areas, which have thus far not experienced deterioration in surrounding structures and areas. Based on a Puget Sound study, it was noted that SOBs are incompatible with residential, educational and religious uses. *The Northend Cinema v. Seattle* case agreed that the goal of preserving the quality of residential neighborhoods by prohibiting disruptive adult uses was a valid, substantial interest. This case also points out that residents' perceptions may be a major factor in siting SOBs. Overall the study concludes that research has shown SOBS may lead to the secondary effects mentioned above, but it is not possible to say definitely in each case. The study goes on to review regulations adopted by different jurisdictions, analyzing approaches of dispersal and concentration of SOBs. The study enumerates several sections of code showing public policy concerns to be considered when deciding Bellevue's approach to regulating SOBs. Currently, the three existing SOBs in Bellevue show no particular negative impacts on the surrounding community, and are widely dispersed from each other and other sensitive uses (residences, etc). However, there is not guarantee that future concentrations of SOBs will not occur.

**RECOMMENDATIONS:** The study recommended the adoption of a modified dispersal/concentration approach (i.e. dispersal within CB, OLB and CBD zones), with a 600-foot distance limitation between SOBs and other sensitive uses.



***National Law Center Summary of the***  
**DES MOINES, WASHINGTON**  
**LAND USE STUDY**  
**DATED AUGUST, 1984**

**OVERVIEW:** This land use study includes an independent report prepared by R. W. Thorpe & Associates, Inc for the Des Moines City Council, and a report from the City Administration on the impacts of Sexually-Oriented Businesses (SOBs) on the area. Appendices include: a theater admission report, a 1978 Des Moines Community opinion survey, a copy of a Des Moines ordinance requiring an impact study of SOBs on the city, a list of criminal incidents related to the adult theater, a business activity chart of businesses adjacent to the adult theater, a copy of *Northend Cinema, Inc. v. City of Seattle*, 585 P.2d 1153 (1978), and transcripts of the hearing and testimonies.

**FINDINGS:** When the study was made, Des Moines had an adult theater operating in the Revitalization area/central business district of the city. It had been operating as such since the 1970's. The Administration report noted a 1978 Community Opinion Survey reporting that the majority of residents in the area were opposed to the theater. The Administration's report also lists several negative impacts caused by the presence of the adult theater in the community, including: decreased property values, refusal to shop in stores adjacent to the adult theatre, noticeable deterioration of the district, deferred maintenance, parking and traffic problems, attraction of transients, increased crime, and interference with parental responsibilities for children. As a result, the study noted that there had been numerous business failures and high business turnover in the commercial areas near the adult theater. Public testimony, staff studies and the independent study all concluded that the continued presence of the adult theater would nullify any investment in the revitalization efforts of downtown Des Moines. The study examined efforts to regulate SOBs in North Carolina, Detroit, Maryland, and Seattle. The Administration's study took particular note of Seattle's zoning ordinance, which restricted location of SOBs to a certain part of the city. It was upheld by that state's highest court, which said the city's important interest in regulating the use of its property for commercial purposes was sufficient justification.

The independent study submitted by R. W. Thorpe & Associates, Inc for the Des Moines City Council mostly focused on and made comparisons to studies done in cities in the western part of Washington State. However, the study also looked at other jurisdictions like Boston, and New Orleans. It looks at various negative impacts on the community including crime, decline in adjacent land uses, economic impact (decreased property values), and community impact (incompatibility with sensitive uses and areas where minors may meet collectively). It discussed differing approaches to regulating SOBs, including clustering and dispersal.

**RECOMMENDATIONS:** The Administration's report, based partly on the independent study, concluded that a zoning ordinance should be enacted, locating adult businesses in the CG zone along Highway 99. This would keep SOBs away from the central business district that the city was trying to revitalize and maintain a family friendly atmosphere there. Dispersal of SOBs was also recommended to minimize impact of crime potential volatile situations associated with close proximity of SOBs.



***National Law Center Summary of the***  
**SEATTLE, WASHINGTON**  
**LAND USE STUDY**  
**DATED MARCH 24, 1989**

**OVERVIEW:** The report concerns a proposed amendment to add topless dance halls to existing land use regulations for "adult entertainment establishments." Seattle had eight such dance halls (termed "adult cabarets"), six established since 1987. The study relies on reports from a number of cities, including Indianapolis, Los Angeles, Phoenix, Austin and Cleveland.

**FINDINGS:** The increased number of cabarets resulted in citizen complaints, including phone calls, letters (from individuals and merchants associations), and several petitions with hundreds of signatures. Protests cited decreased property values; increased insurance rates; fears of burglary, vandalism, rape, assaults, drugs, and prostitution; and overall neighborhood deterioration. The report notes that patrons of these cabarets most often are not residents of nearby neighborhoods. Without community identity, behavior is less inhibited. Increased police calls to a business, sirens, and traffic hazards from police and emergency vehicles are not conducive to healthy business and residential environments.

**RECOMMENDATIONS:** Since city zoning policy is based on the compatibility of businesses, the report recommends that the cabarets locate in the same zones as "adult motion picture theaters." This plan allows about 130 acres for such businesses to locate throughout the city.



***National Law Center Summary of the***  
**ST. CROIX CO., WISCONSIN**  
**LAND USE STUDY**  
**DATED SEPTEMBER, 1993**

**OVERVIEW:** At the time the St. Croix County Planning Department did this study, the County had two adult cabarets, but did not have a problem with concentration of sexually-oriented businesses (SOBs). The study acknowledges that SOB zoning ordinances have generally been upheld by the courts as constitutional and suggests the County consider following the lead of other communities who have enacted similar ordinances. The main concern surrounded possible growth of SOBs resulting from future plans for an interstate highway system linking St. Croix County and the great Twin Cities metro area. To preserve the County's "quality of life" the study indicates the need to take preventative vs. after-the-fact action.

**SUMMARY:** The study notes the continued growth of the SOB industry and analyzes the economic, physical, and social impact it has on the community. It examines documented economic impact of SOBs in Los Angeles, CA, Detroit, MI, Beaumont, TX, and Indianapolis, IN, noting that concentrations of SOBs results in decreased property values, rental values, and rentability/salability. General economic decline is also associated with concentration of SOBs. Residents surveyed in other studies perceived a less negative impact on property values of residential and commercial areas the further away SOBs were located. The study also noted that economic decline caused physical deterioration and blight. During night time operation hours, traffic congestion and noise glare could also be problems. Social impacts studied included negative effects on morality, crime, community reputation and quality of life. It noted the 1970 Commission on Obscenity and Pornography saying porn has a deleterious effect upon the individual morality of American citizens. It sites the Phoenix, AZ study reporting a tremendous increase in crime in three study areas containing SOBs (43% more property crimes, 4% more violent crimes, and over 500% more sex crimes). The study mentions Justice Powell's quote in *Young v. American Mini-Theatres* regarding using zoning to protect "quality of life."

The study analyzes different zoning techniques, including dispersal and concentration of SOBs, and their constitutionality. It also discusses the use of "special use" and "special exception" permits. Other regulatory techniques discussed include licensing ordinances, active law enforcement, sign regulations, and nuisance provisions. The study includes detailed examples of SOB definitions, a proposed zoning ordinance, and a bibliography of the sources used for this study.

**RECOMMENDATIONS:** The study recommended that the county adopt a zoning ordinance using the dispersal technique. It also suggested the county explore the possibility of licensing SOBs.



***National Law Center Summary of the***  
**ROME, GEORGIA CITY COMMISSION**  
**LAND USE STUDY**  
**DATED MARCH 6, 1995**

**OVERVIEW:** Captain Marshall Smith, the Commander of the Detective Division of Rome (GA) City Police Department presented a report to the City Commission in respect the effects of crime rates surrounding adult entertainment and the impacts on other Georgia communities.

**SUMMARY OF THE REPORT:** The Captain reported several Georgia communities had sufficient increases of reported crimes in several Georgia communities. Specifically, Captain Smith reported the following:

- An investigator in La Grange, Georgia stated that after an adult entertainment business opened in this community, there was an increase in the number of calls. Specifically, the La Grange Police Department responded to 106 calls relating to one adult club in the year 1994.
- The Augusta Police Department reported that for a two-year period between January of 1993 and December 1994, the Police Department responded to 971 calls from three different adult entertainment businesses. The calls for service ranged from thefts and fights to aggravated assaults with weapons involved.
- The Whitfield County Sheriff's Office stated they have had instances involving prostitution, drugs, thefts, and aggravated assaults involving discharging of firearms.



*National Law Center Summary of the*  
**THE CITY OF SAINT MARYS, GEORGIA**  
**DIGEST OF RESEARCH ON THE EVIDENCES OF RELATIONSHIPS BETWEEN**  
**ADULT ORIENTATED BUSINESSES AND COMMUNITY CRIME AND DISORDER**

The Police Department of Saint Marys, Georgia, was requested to gather evidence relating to the evidence of the relationship between crime and adult businesses, if any.

**THE REPORT:** The report summarizes studies from across the United States and specifically in the State of Georgia with respect to the adverse secondary effects of all adult oriented businesses in those communities. The report took those various studies together and other sources of evidence and found that the amount of crime and the type of crime, especially sexual related crimes, would increase at statistically significant levels with the introduction of adult oriented businesses in their community.



*National Law Center Summary of the*  
**THE ADAMS COUNTY SHERIFF'S DEPARTMENT**  
**ADAMS COUNTY NUDE ENTERTAINMENT STUDY**  
**DATED JUNE 20, 1991**

OVERVIEW: The Adams County Sheriff's Department performed research related to a proposed nude entertainment ordinance for Adams County, Colorado. In this study six representative locations were selected at random representing six different areas in the unincorporated portions of Adams County.

SUMMARY OF THE REPORT:

- The study in April of 1988 determined that 76 percent of the patronage of adult businesses in their community were transient, coming from counties other than Adams County, Colorado.
- A one-block area of the community was selected because it contained two nude entertainment establishments, a Seven Eleven, a convenience store, a neighborhood tavern, three fast food businesses, and a gas station. In this block in 1986, 24 crimes were reported from the area of which 83 percent were attributed to the two nude entertainment establishments.
- In 1987 the same area was surveyed and 28 crimes were reported, 93 percent of which were attributed to the two adult businesses. It was also noted in this block that 61 percent of the crimes occurred between 4:00 p.m. and 12:00 p.m.
- A study of another block, which included three adult book stores, two topless night clubs, one neighborhood bar, one liquor store, and one beer outlet found that during 1986, 55 crimes were reported compared to 63 crimes in 1987, a 15 percent increase.
- In a more rural and isolated section of the county where a topless night club was located, 13 crimes were reported in 1986, compared to 18 crimes in 1987, a 39 percent increase.
- This study was updated looking at 1990 statistics and reported no significant changes in these areas with a few exceptions. One such exception was that one block in question in the original study reported crimes increased by 900 percent of which a 290 percent increase was attributed to adult businesses which offered nude entertainment and/or alcohol.



*National Law Center Summary of the*  
**MINNESOTA ATTORNEY GENERAL'S WORKING GROUP ON  
THE REGULATIONS OF SEXUALLY-ORIENTED BUSINESSES**

DATED JUNE 6, 1989

OVERVIEW: The Attorney General of the State of Minnesota created a working group with respect to the regulation of adult businesses. The working group for a testimony conducted briefings on the impact of adult businesses on crime and communities with methods available to reduce the secondary effects of adult businesses. Additional research was done to evaluate strategy use in other states and cities and the ramifications of those strategies.

FINDINGS RECOMMENDATIONS:

1. City and county attorneys' offices in the Twin Cities metropolitan area should designate a prosecutor to pursue obscenity prosecutions and support that prosecutor with specialized training.
2. The Legislature should consider funding a pilot program to demonstrate the efficacy of obscenity prosecution and should encourage the pooling of resources between urban and suburban prosecutor offices by making such cooperation a condition for receiving any such grant funds.
3. The Attorney General should provide informational resources for city and county attorneys who prosecute obscenity crimes.
4. Obscenity prosecutions should begin with cases involving those materials which most flagrantly offend community standards.
5. The Legislature should amend the present forfeiture statute to include as grounds for forfeiture all felonies and gross misdemeanors pertaining to solicitation, inducement, promotion, or receiving profit from prostitution and operation of a "disorderly house."
6. The Legislature should consider the potential for a RICO-like statute with an obscenity predicate.
7. Prosecutors should use the public nuisance statute to enjoin operations of sexually-oriented businesses which repeatedly violate laws pertaining to prostitution, gambling, or operating a disorderly house.
8. Communities should document findings of adverse secondary effects of sexually-oriented businesses prior to enacting zoning regulations to control these uses so that such regulations can be upheld if challenged in court.



*National Law Center Summary of the*  
**MINNESOTA ATTORNEY GENERAL'S WORKING GROUP ON**  
**THE REGULATIONS OF SEXUALLY-ORIENTED**  
**BUSINESSES**  
(CONTINUED)

9. To reduce the adverse effects of sexually-oriented businesses, communities should adopt zoning regulations which set distance requirements between sexually-oriented businesses and sensitive uses, including but not limited to residential areas, schools, child care facilities, churches and parks.
10. To reduce adverse impacts from concentration of these businesses, communities should adopt zoning ordinances which set distances between sexually-oriented businesses and between sexually-oriented businesses and liquor establishments, and should consider restricting sexually-oriented businesses to one use per building.
11. Communities should require existing businesses to comply with new zoning or other regulation of sexually-oriented businesses within a reasonable time so that prior uses will conform to new laws.
12. Prior to enacting licensing regulations, communities should document findings of adverse secondary effects of sexually-oriented businesses and the relationship between these effects and proposed regulations so that such regulations can be upheld if challenged in court.
13. Communities should adopt regulations which reduce the likelihood of criminal activity related to sexually-oriented businesses, including but not limited to open booth ordinances and ordinances which authorize denial or revocation of licenses when the licensee has committed offenses relevant to the operation of the business.
14. Communities should adopt regulations which reduce exposure of the community and minors to the blighting appearance of sexually-oriented businesses, including but not limited to regulations of signage and exterior design of such businesses, and should enforce state law requiring sealed wrappers and opaque covers on sexually-oriented material.



*National Law Center Summary of the*  
**REPORT TO THE CITY OF ATTORNEY OF KENNEDALE,  
TEXAS, ON CRIME-RELATED SECONDARY EFFECTS OF  
ADULT BUSINESSES**

The City Attorney for Kennedale, Texas retained Professor Richard McCleary to express an opinion as to four questions relating to litigation in which the city was involved regarding sexually-oriented businesses (SOBs). Specifically, Professor McCleary reported on the crime-related secondary effects of SOBs.

The following are the questions asked and opinions rendered by Dr. McCleary:

Question 1: Do SOBs pose significant ambient public safety hazards?

Opinion 1: As a class, SOBs pose a significant ambient public safety hazards. These hazards involve not only “victimless” crimes (prostitution, e.g.) plus, also, “serious” crimes, (robbery, e.g.) and “opportunistic” crimes, (vandalism, e.g.) that are associated with vice.

Question 2: How valid is the empirical evidence that SOBs pose significant public safety hazards?

Opinion 2: The criminogenic nature of SOBs is a scientific fact. This opinion is based on two considerations. First, strong, empirically-validated criminological theory predicts that crime victimization risks will be higher around SOB sites as a consequence of the normal commercial activities at the sight. Second, this theoretically expected secondary effect has been observed in a diverse range of locations, circumstances, and times. Although the magnitude and nature of the observed crime-related secondary effect varies from case to case, every adequately designed study has observed and reported a large, significant effect.

Question 3: Do SOBs that provide material for off-premise-only use pose smaller ambient public safety hazards than other SOBs?

Opinion 3: To the extent that the on premise and off premise only SOB’s draw similar patrons from similarly wide catchment areas, criminological theory predicts similar ambient crime risks. This theoretical expectation is supported by the data.

Question 4: Can the ambient public safety hazard associated with SOBs be mitigated by “hours-of-operation” regulations?

Opinion 4: The ambient public safety hazard (or crime victimization risk) can be mitigated by regulation, including hours-of-operation regulations.



*National Law Center Summary of the*  
**REPORT OF DR. RICHARD MCCLEARY TO EFFINGHAM  
COUNTY, EFFINGHAM, ILLINOIS**

**OVERVIEW:** Dr. McCleary was asked to review materials sent to him by the Effingham County State's Attorney's office and the empirical studies of crime-related secondary effects. Dr. McCleary provided his opinions with respect crime-related secondary effects.

**FINDINGS AND OPINIONS:** Dr. McCleary offered the following opinions to the stated questions and those opinions are stated herein:

**Question 1:** Do sexually-oriented businesses, as a general class, pose significant ambient public safety hazards?

**Opinion 1:** As a class, SOBs pose a significant ambient public safety hazards. These hazards involve not only "victimless" crimes (prostitution, e.g.) plus, also, "serious" crimes," (robbery, e.g.) and "opportunistic" crimes, (vandalism, e.g.) that are associated with vice. The ambient public safety hazard (for crime victimization risks) can be ameliorated by regulation.

**Question 2:** Given an affirmative answer to the first question, how valid is the evidence upon which this opinion is based?

**Opinion 2:** The criminogenic nature of SOBs is a scientific fact. This opinion is based on two considerations. First, strong, empirically-validated criminological theory predicts that crime victimization risks will be higher around sexually-oriented business sites, and as a consequence of the normal commercial activities at the site. Second, this theoretically expected secondary effect has been observed in a diverse range of locations, circumstances, and times. Although the magnitude and nature of the observed crime-related secondary effect varies from case to case, every adequately designed study has observed and reported a large, significant effect.



**CITY OF NORTH BAY VILLAGE**  
**MEMORANDUM**

**DATE:** July 10, 2012

**TO:** Mayor and City Commission Members

**FROM:** Dennis Kelly, City Manager  
Jim LaRue, Interim City Planner  
Susan L. Trevarthen, City Attorney's Office  
Kathryn M. Mehaffey, City Attorney's Office

**SUBJECT:** Business Regulations for Adult Entertainment Establishments (Creating Chapter 119 of the Code of Ordinances)

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The attached proposed Ordinance, Exhibit A (the "Ordinance"), is for your review and approval on first reading. It creates business regulations for adult entertainment establishments, which are allowed to be established in the City pursuant to the zoning regulations found in Chapter 152.111. This Business Regulation Ordinance provides for licensing for adult entertainment establishments and for application requirements and procedures, as well as structural and operational criteria for approval and maintenance of such licenses consistent with all controlling laws.

**I. Background**

Adult entertainment establishments have limited protection under the freedom of expression clause of the First Amendment of the United States Constitution, because courts have concluded that "adult entertainment" includes an element of expression or speech. The United States Supreme Court has determined that adult entertainment establishments may be regulated by "content-neutral" regulations. A content-neutral regulation does not regulate the actual speech, but instead regulates the secondary effects associated with the speech. This Ordinance balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner business regulations of adult entertainment establishments.

**II. Proposed Regulations**

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The City currently provides extensive business regulations, generally and for specific businesses, in Title XI, Business Regulations, Chapters 110-118. The proposed Ordinance creates Chapter 119, Adult Entertainment Establishments, to provide content neutral regulations requiring a business license for all adult entertainment establishments and guiding the development and operation of such establishments.

The location of these uses, and process and requirements for approval of locations, are addressed separately through zoning regulations in Chapter 152.111, also before you on this agenda.

The attached Ordinance provides purpose, findings and authority as well as definitions, including a number of definitions that were relocated from Chapter 152.111 of the zoning code because they are primarily used in this Chapter. The Ordinance comprehensively identifies and defines the different types of adult entertainment establishments which are regulated by and require licenses under this Chapter. Application requirements, review processes, and approval and enforcement procedures are also established.

The Ordinance extensively regulates the operations of adult dancing establishments and other adult entertainment establishments:

1. Maximum hours of operation;
2. Prohibition of alcoholic beverage sales, service, and consumption;
3. Minimum lighting and seating;
4. Minimum separations between the dancer and the patron;
5. Standards for furnishings and floor plan to assure the effectiveness of cleaning and monitoring for criminal activity;
6. Minimum attire (no full nudity);
7. Security requirements; and
8. Other prohibited activities.

These regulations address important governmental interests such as preventing the spread of diseases, avoiding opportunities for prostitution, sex crimes, drug and other offenses, preventing those who have previously been convicted of crimes related to these businesses from reestablishing them in another community, protecting the ability of police to effectively inspect and monitor all areas of the business operation as needed, and protecting patrons, as discussed in greater detail in the various studies.

Section 119.01(b) of the proposed Chapter lists the governmental studies which serve as evidence and testimony in support of the City's substantial government interest in adopting the business regulations ordinance and analyze the negative secondary effects of sexually-oriented businesses on the community. Due to their voluminous nature, copies of the studies have been provided for your review only as part of the companion agenda item establishing zoning regulations for adult entertainment establishments (See Exhibit C to Agenda Item 11.D.) However, they should also be reviewed and relied upon as a basis for this Ordinance, as detailed in the cover memorandum summarizing each study provided here as Exhibit B.

**Attachments:**

Exhibit A: Business Regulation Ordinance, for first reading

Exhibit B: Memorandum re Studies

Exhibit C: Studies – See Exhibit C to Agenda Item 11.D.

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

**AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY, CITY MANAGER DENNIS KELLY, AND CITY ATTORNEYS SUSAN TREVARTHEN AND KATHRYN MEHAFFEY)**

**WHEREAS**, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of Florida and federal Law; and

**WHEREAS**, the City Commission desires to provide adult entertainment business regulations pursuant to the City's home rule powers; and

**WHEREAS**, the City Commission relies upon the evidence and testimony presented before the City Commission, and on the findings incorporated in the following studies to support the modifications made by this Ordinance:

- (1) The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);
- (2) The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);
- (3) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);

- (4) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);
- (5) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998);
- (6) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);
- (7) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);
- (8) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);
- (9) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);
- (10) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);
- (11) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and
- (12) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; and

**WHEREAS**, based on the evidence and testimony which has been presented to the City Commission, and based upon the findings provided in the studies above, the City Commission finds that there is convincing documented evidence that Adult Entertainment Establishments, because of their very nature, have deleterious effects on existing and future business establishments and residential areas, causing increased crime and the deterioration of property values; and

**WHEREAS**, the City Commission finds that Adult Entertainment Establishments, because of their very nature, have serious objectionable operational characteristics; and

**WHEREAS**, the City Commission finds that the regulation of the location and operation of Adult Entertainment Establishments is necessary to prevent undesirable adverse secondary impacts on surrounding areas; and

**WHEREAS**, the City Commission desires to minimize and control these adverse secondary impacts 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 adjacent areas; and deter the spread of blight; and

**WHEREAS**, the City Commission, although concerned about these adverse secondary impacts, upholds constitutionally protected speech and expression and does not desire to infringe on or censor constitutionally protected speech and expression; and

**WHEREAS**, the City Commission desires to enact a content neutral ordinance that addresses only the adverse secondary impacts of Adult Entertainment Establishments; and

**WHEREAS**, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above stated recitals is true and correct and incorporated herein by this reference.

**Section 2. City Code Amended.** That Chapter 119 "Adult Entertainment Establishments," of the City of North Bay Village Code of Ordinances is hereby created to read as follows:<sup>1</sup>

**CHAPTER 119. ADULT ENTERTAINMENT ESTABLISHMENTS.**

**ARTICLE I. ADULT ENTERTAINMENT LICENSING.**

**Section 119.01 – Purpose, Findings and Authority.**

(a) *Purpose.* In the development and enforcement of this chapter, it is recognized that there are adult entertainment uses which, because of their very nature, are recognized as having serious objectionable characteristics, particularly when several of them are concentrated in any given location thereby having a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from objectionable operational characteristics of these adult entertainment uses by locating adult oriented activities away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, libraries, playgrounds and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this chapter to:

- (1) inhibit freedom of speech or the press;
- (2) impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials;
- (3) restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
- (4) deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

This chapter balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult entertainment establishments without limiting alternative avenues of

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<sup>1</sup> All text is new. Additions to the new text since the draft was provided (for informational purposes only) to the Planning and Zoning Board are shown in underline; deletions from the new text since the draft was provided to the Planning and Zoning Board are shown in ~~strike through~~.

communication. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

(b) *Findings.* Based on the evidence and testimony presented before the City Commission and on the findings incorporated in (i) "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas); (ii) "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas); (iii) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California); (iv) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio); (v) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998); (vi) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997); (vii) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996); (viii) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996); (ix) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994); (x) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado); (xi) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); (xii) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005, the City Commission finds as follows:

- (1) Establishments exist or may exist within the city where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.
- (2) Establishments exist or may exist within the city where:
  - (a) The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
  - (b) Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or

(c) Lap dancing occurs.

- (3) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the city in the interest of the health, safety, and general welfare of city residents.
- (4) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.
- (5) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.
- (6) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.
- (7) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.
- (8) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the city.
- (9) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the city to prohibit nude and seminude acts, exhibitions, and entertainment establishments at which alcoholic beverages are, or are available to be, sold or consumed.
- (10) To preserve the public peace and good order, and to safeguard the health, safety, and welfare of the community and its residents, it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators, and persons on the premises of the commercial establishment subject to this chapter.
- (11) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these

activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the city.

(12) When the activities described in subsections (1) and (2) take place in establishments within the city, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(13) When the activities described in subsections (1) and (2) are present in establishments within the city, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(14) Physical contact between employees exhibiting specified anatomical areas and customers within establishments at which the activities described in subsections (1) and (2) occur poses a threat to the health of both and may lead to the spread of communicable, infectious, and social diseases.

(15) To preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections (1) and (2) occur.

(16) The potential dangers to the health, safety, and general welfare of the residents of the city from the activities described in subsections (1) and (2) occurring at establishments without first obtaining a license under this chapter are so great as to require the licensure of such establishments before they are permitted to operate.

(17) "Lap dancing" does not contain an element of communication, and is therefore conduct rather than expression.

(18) "Lap dancing" in establishments poses a threat to the health of the participants and promotes the spread of communicable, infectious, and social diseases.

(19) Adult entertainment establishments are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(20) The concern over sexually transmitted diseases is a legitimate health concern of the city that demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the citizens.

(21) The prevention of sexual contact between patrons and employees at adult dancing establishments is unrelated to the suppression of free expression, but serves to address the concerns raised in the findings contained in this chapter. Although the dancer's erotic message may be slightly less effective from four (4) feet away, the ability to engage in the protected expression is not significantly impaired.

(22) Separating dancers from patrons, and prohibiting dancers and patrons from engaging in sexual fondling and caressing in adult dancing establishments, would reduce the opportunity for prostitution transactions and thus should help to deter prostitution.

(23) To preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

(24) Removal of doors on adult booths and requiring sufficient lighting in adult theaters advances the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring at adult theaters.

(25) Requiring that the facilities of adult theaters be constructed of materials that are easy to clean, that the facilities be cleaned on a regular basis, and that the employees cleaning the facilities take reasonable precautions to avoid contact with possible disease-transmitting media is reasonably related to the protection of both employees and patrons from sexually transmitted diseases.

(26) Licensing is a legitimate, reasonable means of accountability to ensure that operators of adult entertainment establishments comply with the reasonable regulations within this chapter and the location requirements of the Zoning Code, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(c) *Authority.* This chapter is enacted pursuant to the City's home rule power to enact regulations to protect the public health, safety, and general welfare of the residents of the city; F.S. § Ch. 163 and Ch. 166; and the city's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

#### **Section 119.02 – Definitions.**

*Adult Bookstore/Adult Video Store.* Shall mean an adult entertainment establishment which offers adult material for sale or rent for commercial gain, or having such materials as a substantial percentage or significant portion of its sale or stock in trade, or an establishment with a substantial or significant portion or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, or actual sales. A substantial or significant portion of its stock in trade shall be deemed to occur when: (1) twenty-five (25) percent or 400 square feet (whichever is less) of the floor area of the establishment contains the items listed above; or (2) the items listed above comprise at least twenty-five (25) percent of the value of the stock in trade

of the establishment.

*Adult Booth.* Shall mean a small enclosed or partitioned area inside an adult entertainment establishment which is:

- (1) Designed or used for the viewing of adult material by one (1) or more persons; and
- (2) Accessible to any person, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

*Adult dancing establishment.* Shall mean an adult entertainment establishment wherein performers or employees of the establishment display or expose to others specified anatomical areas as defined in this chapter, regardless of whether the performer or employee so exposed is actually engaging in dancing.

*Adult domination/submission parlor.* Shall mean an adult entertainment establishment specializing in bondage, sadomasochism, humiliating activities or other similar activities which depicts, describes or relates to the "specified sexual activities" or "specified anatomical areas," as defined below.

*Adult entertainment.* Shall mean any action intended to amuse which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing or less than completely and opaquely covering specified anatomical areas, or similar activities.

*Adult entertainment establishment.* Shall mean:

- (1) Any adult arcade, adult theater, adult bookstore/adult video store, adult modeling establishment, adult motel, encounter studio, or adult dancing establishment as these uses are defined in this Chapter; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.
- (2) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(3) An adult entertainment establishment shall include the entire site or premises on which the adult entertainment establishment is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial gain.

(4) Excluded from this definition are any educational institutions, as defined herein, where the exposure of specified anatomical areas is associated with a curriculum or program.

(5) An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

*Adult material.* Shall mean any one (1) or more of the following, regardless of whether it is new or used:

(1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.

*Adult modeling establishments.* Shall mean any establishment offering nude or partially nude modeling sessions or lingerie, swimwear, or photography modeling sessions between two (2) or more persons or private modeling sessions between two (2) or more persons requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.

*Adult motel.* Shall mean a hotel, motel, boarding house or rooming house or other place of temporary lodging presenting adult material by means of closed circuit television, for observation by patrons therein.

*Adult theater/Adult movie theater.* Shall mean an enclosed building used for presenting adult materials for observation by patrons or any material which may not be exposed to minors under F.S. Ch. 847. An establishment which has adult booths is considered to be an adult theater. Theaters designed to allow the outdoor viewing of adult material are not permitted.

*Educational institution.* Shall mean any premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes, courses of study, or both, required for accreditation by or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools. This term also includes art galleries and museums open to the public; or other accredited special institutions of learning.

*Eh. A(10)*

*Establishment.* Shall mean the site or premises on which the adult entertainment establishment is located, including the interior of the establishment, or portion of it, upon which certain activities or operations are being conducted for commercial gain.

*Encounter studio.* Shall mean all establishments offering nude or partially nude encounter sessions between two (2) or more persons, nude dance/photo sessions, or sexual consultations, which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein or requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.

*Lap dance or lap dancing.* Also known as a "straddle dance," "face dance," "friction dancing," or "flash dance," shall mean the use by an employee, whether clothed or partially or totally nude, of a part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of an employee by a person while at the establishment. It shall be a "lap dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing a specified anatomical area. It shall also be a "lap dance" regardless of whether the "touch" or "touching" is direct or through a medium. However, incidental touching shall not constitute lap dancing.

*Licensed premises.* See "Establishment."

*Massage establishment.* Shall mean:

- (1) Any shop, parlor, establishment or place of business wherein all of any one (1) or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), apply such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.
- (2) Provided, however, that, for the purpose of this chapter, the terms "massage establishment" shall not include any massage establishment wherein at least one (1) state licensed massage therapist is employed and on duty full time during the hours opened for business.
- (3) Nothing in this chapter shall be construed as applying to state licensed massage therapist, barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants of employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, or employee acting in the course of such agency, service or employment under the supervision of the licensee.

*Nude entertainment establishment.* Shall mean any establishment which features male or female entertainers, performing in a state of full nudity, displayed in a setting, section, stage or cubicle

within a business, which has as its principal or incidental purpose the offering for viewing to adults of performances which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

*Full nudity.* Shall mean 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 and areola; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

*Patron.* Shall mean any natural person other than an employee, operator, licensee, or governmental officer while such persons are performing duties pursuant to this Code or other law.

*Principal stockholder.* Shall mean an individual, partnership or corporation that owns or controls, legally or beneficially, thirty-three (33) percent or more of a corporation's capital stock and includes the officers, directors and principal stockholders of a corporation that is a principal stockholder under this chapter; provided, that if a corporation is registered with the Securities and Exchange Commission or pursuant to Chapter 517, Florida Statutes and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

*Private performance.* Shall mean the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee, while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

*Regulated use or adult entertainment establishment.* Shall include, but not be limited to, the following:

- (1) Adult bookstore/adult novelty store/adult video store;
- (2) Adult dancing establishment;
- (3) Adult domination/submission parlor;
- (4) Adult theater/adult movie theater;
- (5) Adult motel;
- (6) Encounter studio/modeling studio;
- (7) Massage establishment; and
- (8) Any bookstore, video store, motion picture theater, motel/hotel, dancing establishment, massage establishment, or photo or modeling studio: (a) that includes the word "adult" in its name; (b) where an employee, operator, or owner exposes his or her specified anatomical area for viewing by patrons; or (c) that requires the exclusion of

minors under Chapter 847, Florida Statutes, shall be considered a regulated use.

*Specified anatomical areas.* Shall mean:

- (1) Less than completely and opaquely covered:
  - a. Human genitals and pubic region; or
  - b. Cleavage of the human buttocks; or
  - c. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, including the areola; this definition shall include the entire lower portion of the human female breast, but shall not include a portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified criminal offense.* Shall mean:

- (1) A conviction under F.S. § 60.05 (Nuisance Abatement);
- (2) A conviction under F.S. Ch. 480 (Massage Practice);
- (3) A conviction under F.S. Ch. 561 (Beverage Law: Administration) or F.S. Ch. 562 (Beverage Law: Enforcement); or
- (4) A judgment against or conviction under F.S. Ch. 823 (Public Nuisances).

*Specified sexual activities.* Shall mean:

- (1) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or
- (4) Excretory functions as part of or in connection with the activities set forth in subsections (1)—(3).

**Section 119.03 - Adult entertainment license.**

- (a) No adult entertainment establishment shall be allowed to operate without first having been issued an adult entertainment license by the City Clerk pursuant to this chapter.
- (b) Adult entertainment licenses referred to in this chapter shall be licenses limited to the following classifications:
  - (1) Adult bookstore /adult video store;
  - (2) Adult theater/adult movie theater;
  - (3) Adult dancing establishment;

- (4) Adult domination/submission parlor;
- (5) Adult motel;
- (6) Encounter studio/modeling studio;
- (7) Massage establishment; or
- (8) Any other adult use as defined in this chapter.

(c) No adult entertainment license shall be issued to a nude entertainment establishment, or any establishment engaging in any display of full nudity.

(d) An adult entertainment license for a particular adult entertainment establishment shall be limited to one (1) classification of license.

(e) An adult entertainment establishment may hold more than one (1) classification of adult entertainment license.

#### **Section 119.04 - Administration.**

The ultimate responsibility for the administration of this chapter is vested in the City Commission. Several agencies have been delegated responsibility pursuant to the provisions outlined in this chapter:

(1) The City Clerk or designee shall be the "business licensing section" responsible for issuing the official notice of the grant, denial, revocation, renewal, suspension, or cancellation of adult entertainment licenses for existing or proposed adult entertainment establishments.

(2) The Chief of Police is responsible for verifying information contained in an application for an adult entertainment license by means of a criminal background check, and for inspecting a proposed, licensed, or unlicensed establishment in the city in order to ascertain whether it is in compliance with applicable articles and criminal statutes, and for enforcing applicable ordinances and criminal statutes, including those provisions set forth in articles this Chapter and in Section 152.111 of this Code.

(3) The building official is responsible for inspecting a proposed establishment for which a license is being applied in order to ascertain whether it complies with or is complying with article II of this chapter and all applicable building codes, statutes, ordinances, and regulations in effect in the city. The building official shall compare and certify that all aspects of the submitted floor plan, site plan, and certified survey accurately depict the actual structure, and comply with the provisions of this chapter.

(4) The fire department is responsible for the inspection of licensed premises or a proposed establishment to ascertain whether it complies with or is complying with Article II of this chapter and all applicable fire codes, statutes, ordinances, and regulations in effect in the city.

(5) The City Planner is responsible for ascertaining whether a proposed establishment for which a license is being sought complies with section 152.111 of the City Code, the applicable portions of article II, and all applicable zoning regulations in effect in the city, and whether a licensed establishment is complying with section 152.111 of the City Code, Article II of this chapter, and all applicable zoning regulations and land use laws in effect in the city.

(6) Any employee of the agencies referenced in subsections (2) through (5) above who is authorized by the person in charge of the agency shall at any reasonable hour, when the agency has reasonable cause to believe that a violation of this chapter may exist, have access to and shall have the right to inspect the premises of all licensees under this chapter for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the city and within the responsibilities of their respective agencies as outlined in this chapter.

**Section 119.05 - Application.**

(a) *Filing.* A person desiring to operate an adult entertainment establishment shall file with the business licensing section a sworn license application on a standard application form supplied by the business licensing section.

(b) *Contents.* The application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, his or her legal name, aliases, and date of birth, driver's license number or a state or federally issued identification card number;

b. A partnership, the full and complete name of the partners, dates of birth, driver's license numbers or state or federally issued identification card numbers of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, and, if in existence, a copy of the partnership agreement; or

c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, directors and principal stockholders, and all aliases used, the capacity of all officers, directors, and principal stockholders, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process; and

(2) The application shall list the current local and legal domiciliary residential addresses of all individual applicants, partners in a partnership application, and the principal stockholders of a corporate applicant; for purposes of this subsection, principal stockholders are natural persons and not corporate or other legal entities; when the principal stockholder is a corporate or other legal entity, the application must trace back the ownership through layers of corporate organization to the eventual principal stockholder who is a natural person; and

(3) If the applicant intends to conduct business under a name other than that of the applicant, the applicant shall state the establishment's fictitious name and the county of registration under F.S. § 865.09, all legal names, dates of birth, addresses and all aliases used by all owners; and

(4) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has within the five-year period immediately preceding the date of the application,

ever been convicted of a specified criminal offense and, if so, the specified criminal act involved, the date of conviction, and the place of conviction; and

(5) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has (a) had a previous license issued under this chapter suspended or revoked, or by court order, been required to cease operation, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and (b) whether the applicant, or any other individuals listed pursuant to subsection (a), has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license issued under this chapter has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation; and

(6) Whether the applicant, or other individuals listed pursuant to subsection (1) above, holds other licenses under this chapter and, if so, the names and locations of such other licensed establishments; and

(7) The single classification of license for which the applicant is filing and the general nature of adult use for which the applicant is seeking a license, including a statement concerning the degree to which the anticipated activities at the adult entertainment establishment meet the definitions of the enumerated adult use classifications listed in the definitions section (section 119.02); such characterization shall serve as an initial basis for the permitted activities allowed under the license issued as well as a basis for the fee charged; and

(8) The location of the proposed establishment, including a legal description of the property site, and a legal street address; and

(9) The names of all employees, dates of birth, and aliases used for the proposed establishment, if known, or, if currently unknown, a statement to that effect; and

(10) The applicant's mailing address, residential address and residential telephone number (if any); and

(11) A site plan and certified survey drawn to appropriate scale of the proposed establishment including, but not limited to, all property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways and shall state and indicate on the survey that the distance and location requirements of section 152.111.04 have been satisfied; and

(12) A floor plan drawn to appropriate scale of the proposed establishment including, but not limited to:

- a. All windows, all doors, all entrances and exits; and
- b. Proposed seating arrangement; and

c. All fixed structural interior features including, but not limited to, doors, aisles, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters, platforms, and similar structures; and

d. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size; and

(13) The name, address and phone number of the person whom the building official should contact to schedule the inspection; and

(14) The phone number and address of the existing or proposed establishment; and

(15) The name, phone number and address of the manager; and

(16) A detailed security plan;

(17) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.

(c) *Copies.*

(1) In addition to the requirements of subsection (b) above, the applicant shall supply a minimum of five (5) copies of the application, or more as may be required, to the business licensing section.

(2) An application shall not be considered complete until the application satisfies the requirements of subsection (b) and subsection (c)(1) above.

(d) *Application fee.* Each application shall be accompanied by a nonrefundable fee to be set by resolution of the City Commission to recoup the costs related to administering the licensing program. If the application for a license is approved and a license is granted, half of the application fee shall be applied as a credit towards the annual license fee required for the first year pursuant to subsection 119.08(f).

(e) *Rejection of application.* In the event the business licensing section is notified by one of the agencies listed in subsections 119.04(2) through (5) above, that the applicant has not satisfied the application requirements for a proposed establishment, the applicant shall be notified of such fact within the time frame specified in this chapter, with a detailed list of reasons, and the application shall be denied.

**Section 119.06 - Investigation of application.**

(a) Upon receipt of a complete application filed properly with the business licensing section and upon payment of the nonrefundable application fee, the business licensing section shall send the attached photocopies of the application to the Police Chief, the fire department, building official, and City Planner. Each agency shall promptly conduct an investigation of the applicant and the proposed establishment in accordance with its responsibilities outlined in Article II of

this chapter. At the conclusion of its investigation, each agency shall indicate on the photocopy of the application whether the application satisfies each requirement of this chapter, and shall date and sign the application.

(b) Any of the foregoing reviewers shall recommend denial of an application upon finding that the proposed establishment will be in violation of a provision of article II or of any building, fire, or zoning code, statute, ordinance or regulation. If the application fails to satisfy this Code or any building, fire or zoning code, statute, ordinance or regulation, the reviewer shall state specifically its reasons, on a separate letter attached to the photocopy of the application.

#### **Section 119.07 - Administrative review.**

(a) The reviewers shall conduct and complete an investigation of the application within twenty-one (21) days of receipt of the application. If a provision of this chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation is found to be applicable to the applicant who is in violation of any such provisions, the respective reviewer shall notify the business licensing section of the violation, state the reasons, and offer suggestions for correction. Upon receipt of notice of a violation from a reviewer, the business licensing section shall wait until day twenty-one (21) for the review from the other agencies. Then, the business licensing section shall notify the applicant of the denial. All communications regarding approval or denial shall be issued by and through the business licensing section. Oral statements issued directly or independently by the reviewers shall not be deemed to create a reliance or estoppel situation as to the provisions of this chapter.

(b) The business licensing section shall issue or deny an application for an adult entertainment license within forty (40) days from the date of the filing of a complete application. Upon the expiration of the forty-day period, the applicant may demand a license and begin operating the establishment for which a license is sought. The date of the proper filing of the application shall be the date the applicant furnishes the fully completed and sworn application, the required number of copies, and the appropriate, non-refundable application fee.

(c) If the applicant has satisfied the requirements of this chapter, the business licensing section shall notify the applicant and issue the license to the applicant upon payment of the appropriate annual license fee provided in subsection 119.08(f), with credit as provided in subsection 119.05(d).

(d) The business licensing section shall deny the application upon notification by one of the reviewers that:

(1) The application violates or fails to meet the provisions of this chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation;

(2) The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be material false information for purposes of denial of the application; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult use establishment is a material representation for purposes of this chapter;

(3) The applicant, or other individuals listed pursuant to section 119.05(b) has a license under this chapter, or has had a license under this chapter, which has been suspended or revoked;

(4) The granting of the application would violate a statute or ordinance, or an order from a court of law that effectively prohibits the applicant from obtaining an adult entertainment license; or

(5) An applicant, or any other individual required to be listed, has been convicted of a specified criminal offense;

a. For which:

i. Less than two (2) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

ii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the 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 any twenty-four-month period.

b. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

c. An applicant who has been convicted of a specified criminal offense may qualify for an adult entertainment establishment license only when the time period set forth above has elapsed and if his or her civil rights have been restored.

(c) If a person applies for a license at a particular location within a period of one (1) year from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

#### **Section 119.08 - License.**

(a) *Contents.* An adult entertainment license shall state on its face the name of the licensee, the business name, local residential and legal domiciliary residential address of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, a twenty-four-hour working phone number, the date of issuance, and the date of expiration.

(b) *Term.* All licenses issued under this chapter shall be annual licenses which shall commence running on October 1, on which date they shall have been paid for, and shall expire

on September 30 of the following year. If a license is issued after October 1, but prior to March 31 of the following year, the applicant shall pay the prorated license fee. If a license is issued after March 31, but prior to October 1 of the same year, the applicant shall pay one-half ( $\frac{1}{2}$ ) the appropriate license fee.

(c) *Renewal.* Licenses shall be entitled to renewal annually subject to the provisions of this chapter. Before the October 1 expiration date, the annual license may be renewed by presenting the license for the previous year, by paying the appropriate license fee, and by updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged.

(d) *Expiration.* A license shall expire for failure to obtain a renewal pursuant to this chapter by October 1. An expired license may be renewed no later than November 30 of the same year upon:

(1) The submission of an affidavit stating that the establishment has not been operated as an adult entertainment establishment from the date of expiration of the license;

(2) The payment of the appropriate license fee; and

(3) Payment of a penalty of ten (10) percent of the appropriate license fee for the month of October and, if renewed after October 31, an additional penalty of five (5) percent of the appropriate license fee for the month of November.

(e) *Cancellation.* All licenses not renewed by November 30 shall be deemed expired by the business licensing section unless such license is involved in litigation. The applicant may reapply for an adult entertainment license. Upon the payment of the application fee, satisfaction of the application requirements, and payment of the license fee, operation of the adult entertainment establishment may continue.

(f) *Annual license fees.* The annual license fees under this chapter for an adult entertainment establishment shall be set by resolution of the City Commission.

(g) *Collection of fees.* The business licensing section shall be responsible for the collection of the application and annual license fees pursuant to this chapter.

#### **Section 119.09 - Transfer of license.**

(a) A licensee shall not transfer his or her license to another person, or surrender possession, control, or operation of the licensed establishment to such other person.

(b) A licensee shall not transfer his or her license to another location.

(c) An attempted transfer of a license either directly or indirectly in violation of this section is declared void and, in that event, the license shall be deemed abandoned, and the license shall be forfeited.

#### **Section 119.10 - Changed name.**

No licensee may change the name of an adult entertainment establishment unless and until he or she satisfies all of the following requirements:

- (a) Provides the business licensing section with thirty (30) days' notice in writing of the proposed name change;
- (b) Pays to the business licensing section a change-name fee to be set by resolution of the City Commission; and
- (c) Complies with F.S. § 865.09, the Florida Fictitious Name Statute.

**Section 119.11 - Enforcement.**

(a) *Suspension.*

(1) *Violation of regulations.* In the event a licensed adult entertainment establishment is operating in violation of a building, fire, or zoning code, statute, ordinance or regulation, whether federal, state, or local, or the respective requirements of article II of this chapter, the appropriate agency shall promptly notify a code enforcement officer, who shall notify the licensee of the violation. The licensee shall have ten (10) business days in which to correct the violation. If the licensee fails to correct the violation within ten (10) business days, the agency shall notify a code enforcement officer, who shall schedule a hearing before the special master. If the special master determines that a licensed establishment is in violation of a building, fire, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, the code enforcement officer shall notify the business licensing section, which shall forthwith suspend the license and shall notify the licensee of the suspension. The suspension shall remain in effect until the code enforcement officer notifies the business licensing section in writing that the violation of the provision in question has been corrected. Nothing in this section shall take away other enforcement powers of the special master or any other agency provided by the City Code or statute.

(2) *Illegal transfer.* Upon the written notification by one of the agencies that a licensee is or has engaged in a license transfer contrary to section 119.09, the business licensing section shall officially suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until all of the requirements of this chapter have been satisfied and a new license has been issued by the business licensing section.

(3) *Violations of article II of this chapter.*

a. In the event two (2) or more convictions for violations of the rules and regulations within article II or of any health code, statute or regulation occur within a two-year period, the business licensing section shall, upon notification of the date of the second conviction, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of sixty (60) days.

b. In the event one (1) or more convictions for violations of the rules and regulations of article II or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for sixty (60) days under subsection a. above, the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for sixty (60) days shall not be included within the two-year period. The suspension shall remain in effect for a period of ninety (90) days.

c. In the event one (1) or more convictions for violations of a rule or regulation of article II or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for ninety (90) days under subsection b., the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for ninety (90) days shall not be included within the two-year period. The suspension shall remain in effect for a period of one hundred eighty (180) days.

d. The renewal of, or new application for, a license pursuant to this chapter shall not defeat the terms of this section.

(4) *Effect of suspension.* If a license is suspended, all operations within the adult entertainment establishment shall cease for the period of the suspension, and the license shall be suspended for the suspension period. The State of Florida, Division of Alcoholic Beverages and Tobacco and the Department of Business and Professional Regulation shall be notified of the suspension, and no other person shall be allowed to operate an adult entertainment establishment at that location for a period of one hundred eighty (180) days.

(5) *Effective date of suspension.* All periods of suspension shall begin fifteen (15) calendar days after the date the business licensing section mails the notice of suspension to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

(b) *Revocation.*

(1) *False information.* In the event it is learned or found, or upon sufficient cause determined that a license was granted based upon false information, misrepresentation of fact, or mistake of fact by the licensee or his or her agent, the respective agency that has knowledge of the false information shall notify the business licensing section. The business licensing section shall notify the licensee in writing of the business licensing section's intent to revoke the license. The licensee shall have ten (10) days from the date of receipt of the notification to request a hearing. The hearing shall be scheduled before the special master. If the licensee does not request a hearing, the license shall be considered revoked ten (10) days after the receipt of the notification. If the licensee does

request a hearing, the license shall remain in effect during the pendency of the action before the special master.

(2) *Convictions for violations of article II of this chapter.* In the event one (1) or more convictions for violations of article II or of any applicable health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for a period of one hundred eighty (180) days pursuant to subsection (a)(4), the business licensing section shall forthwith revoke the license and notify the licensee of the revocation. The time during which the license was previously suspended for one hundred eighty (180) days shall not be included within the two-year period.

(3) *Effect of revocation.* If a license is revoked, the licensee shall not be allowed to obtain another adult entertainment license for a period of two (2) years, and no license shall be issued during that time period to another person for the location and premises upon which the adult entertainment establishment was situated.

(4) *Effective date.* The revocation shall take effect fifteen (15) calendar days after the date the business licensing section mails the notice of revocation to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

#### **Section 119.12 - Records and reports; consent.**

(a) Each licensee shall keep such records and make such reports as may be required by the business licensing section and the agencies to implement this chapter and to carry out its purpose.

(b) By holding a license under this chapter, the licensee shall be deemed to have consented to the provisions of this chapter, and to the exercise by the applicable agencies of their respective responsibilities under this chapter.

[Sections 119.13-119.19 Reserved]

### **ARTICLE II - ADULT ENTERTAINMENT ESTABLISHMENTS: BUSINESS REGULATIONS.**

#### **Section 119.20 - Hours of operation.**

(1) It shall be unlawful for an operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow an employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 10:00 a.m. on all days.

(2) It shall be unlawful for an employee of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 10:00 a.m. on all days.

#### **Section 119.21 - Alcoholic beverages prohibited.**

(1) No alcoholic beverages shall be sold, served, or consumed in an adult entertainment establishment.

(2) No person or employee shall expose to public view his or her specified anatomical areas, or simulation thereof, in an establishment selling, serving, or allowing the consumption of alcoholic beverages.

(3) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow a person or employee to expose to public view his or her specified anatomical areas, or simulation thereof, within the establishment.

(4) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposure to public view of specified anatomical areas, or the simulation thereof, within the establishment.

(5) No person shall cause and no person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposition of graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.

**Section 119.22 - Supplementary requirements; prohibitions.**

(1) *Adult theater:* In addition to the general requirements for an adult entertainment establishment contained in this article, an adult theater shall comply with the following special requirements:

(a) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:

1. Have individual or separate seats, not couches, benches, beds, or the like, to accommodate the maximum number of persons who may occupy the area; and
2. Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and
3. Have a sign posted in a conspicuous place at or near each entrance way to the hall or auditorium area listing the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the auditorium area; and
4. Have premises equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 foot-candle as measured at floor level; and
5. It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises

to ensure that the illumination described above is maintained at all times that any patron is present on the premises; and

6. Have an AIDS crisis sign visible to all patrons on the side of the door that opens and allows patrons to enter the theater.

(b) Furnishing of adult theaters:

1. Each adult theater subject to this article shall cover the floor of areas accessible to patrons with smooth and nonpermeable flooring material which can withstand frequent effective cleaning in accordance with subsection (1)(c)3. Carpeting of any type is prohibited; and

2. Each adult theater shall use smooth and non-permeable upholstery material which can withstand frequent cleaning in accordance with paragraph (1)(c)3. to cover furniture permitted by this chapter for use of patrons; and

3. Each adult theater shall have, in areas accessible to patrons, interior wall surfaces which can withstand frequent cleaning in accordance with paragraph (1)(c)3; and

4. Each adult theater shall use only those shades, blinds and vertical blinds which can withstand frequent cleaning in accordance with paragraph (1)(c)3. Draperies are prohibited.

(c) Sanitation:

1. All areas of each adult theater which are accessible to patrons shall be maintained in a clean and sanitary condition. The surfaces of all floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons shall be cleaned in accordance with paragraph (1)(c)3;

2. All floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons of adult theaters subject to this chapter shall be renovated or be replaced as needed. All furniture must be kept free from holes and rips; and

3. Any individual cleaning or sanitizing of the areas accessible to patrons shall be accomplished a minimum of 1 time each 24 hours with a 1:10 bleach solution (1 part bleach to 10 parts water), mixed daily, as recommended by the U.S. Center for Disease Control as a precaution for the prevention of transmission of the HIV virus and other diseases. A copy of the approved procedure shall be kept on file at the adult theater and a copy shall be provided to each person cleaning or sanitizing the areas accessible to the patrons. Each such individual shall certify that he or she has read and understood the procedure. Records of the sanitation performed on the premises as required herein shall be kept and maintained

on the premises and posted in a conspicuous place. The signed copy of the sanitation procedure executed by each sanitation employee and the sanitation record referenced above shall be kept as a part of the records of the adult theater, and open for inspection by the applicable agencies.

(2) *Adult dancing establishment:* In addition to the general requirements for an adult entertainment establishment contained in article II of this chapter, an adult dancing establishment shall observe the following special requirements:

(a) It shall have a stage provided for the display or exposure of specified anatomical areas 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; and

(b) The exposure by an employee of specified anatomical areas, or simulation thereof, to public view shall be restricted to the stage required above; and nonemployees or patrons shall not be allowed closer than 4 feet to the stage edge when an employee exposes those anatomical areas; and

(c) The establishment provides 2 security officers consisting of sworn law enforcement officers or identified security personnel if the occupant capacity is less than or equal to 150 persons, and an additional sworn law enforcement officer or identified security personnel for each additional increase of occupant capacity of 100 persons. The security officers or personnel shall be granted unfettered access to all parts of the establishment in order to monitor the interior and exterior of the establishment; and

(d) The establishment provides at least 1 responsible person under the supervision of a manager to check identification at the door to ensure that minors do not enter; and

(e) In all areas in which a private performance shall occur:

1. The private performance area shall be at least 100 square feet in size; and

2. Have a permanently open entrance way not less than 7 feet wide and not less than 7 feet high, which entrance way will never be closed or partially closed by a curtain, door or other partition which would be capable of wholly or partially obscuring a person situated in the area; and

3. Have a wall-to-wall, floor-to-ceiling partition of solid construction without holes or openings, which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display; and

4. Have, except for the entrance way, walls or partitions of solid construction without holes or openings in such walls or partitions.

(f) Parking. All adult dancing establishments shall offer valet parking, and shall further comply with the parking requirements of Chapter 152.

(g) Sign. All adult dancing establishments shall post in a conspicuous area at least 1 sign which states that patrons may not touch employees and drugs are prohibited.

(h) Food service.

(i) No person shall cause and no person maintaining, owning or operating an establishment storing, preparing, serving, selling, or allowing the consumption of food shall allow the exposition or graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.

(ii) Notwithstanding the foregoing, any person maintaining, owning or operating an adult dancing establishment may sell, serve or allow the consumption of customary bar snacks on the premises.

#### **Section 119.23 - Violations of ordinance.**

It shall be unlawful for a person to be an operator of an adult entertainment establishment which does not satisfy all of the requirements of article II of this chapter.

#### **Section 119.24 - Allowing employee to engage in prohibited acts.**

It shall be unlawful for an operator of an adult entertainment establishment to knowingly, or with reason to know, allow an employee:

- (1) To engage in a lap dance with a person at the establishment; or
- (2) To contract or otherwise agree with a person to engage in a lap dance with a person at the establishment; or
- (3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or
- (4) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or
- (5) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand; or
- (6) To engage in a private performance unless such employee is in an area that complies with the special requirements set forth in section 119.22(2); or
- (7) To intentionally touch the clothed or unclothed body of a person at the adult entertainment establishment, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand.

(8) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in section 119.22(2); or

**Section 119.25 - Engaging in prohibited activity.**

It shall be unlawful for an employee of an adult entertainment establishment:

- (1) To engage in a lap dance with a person at an establishment; or
- (2) To contract or otherwise agree with a person to engage in a lap dance with a person at an establishment; or
- (3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or
- (4) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or
- (5) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand.
- (6) To engage in a private performance unless such employee is in an area which complies with the special requirements set forth in section 119.22(2); or
- (7) To intentionally touch the clothed or unclothed body of a person at the adult entertainment establishment, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand; or
- (8) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in section 119.22(2); or

**Section 119.26 - Advertising prohibited activity.**

It shall be unlawful for an operator of an adult entertainment establishment to advertise the presentation of an activity prohibited by an applicable state statute or local ordinance.

**Section 119.27 - Specified criminal offense.**

It shall be a violation of this Code if the operator is convicted or is adjudged guilty of a specified criminal offense that occurred at the establishment.

**Section 119.28 - Minors prohibited.**

It shall be unlawful for an operator of an adult entertainment establishment to knowingly, or with reason to know, allow:

- (1) Admittance to the establishment of a person under 18 years of age; or

- (2) A person under 18 years of age to remain at the establishment; or
- (3) A person under 18 years of age to purchase goods or services at the establishment;  
or
- (4) A person to work at the establishment as an employee who is under 18 years of age.

**Section 119.29 - Touching of employee by nonemployee.**

It shall be unlawful for a person in an adult entertainment establishment, other than another employee, to intentionally touch the unclothed or clothed body of an employee at a point below the neck and above the knee of the employee, excluding that part of the employee's arm below the wrist, referred to as the hand.

**Section 119.30 - Use of rest rooms or dressing rooms.**

(1) Notwithstanding any provision of this Code to the contrary, it shall not be unlawful for an employee of an adult entertainment establishment to expose a specified anatomical area during the employee's bona fide use of a rest room, or during the employee's bona fide use of a dressing room, which is accessible only and restricted to employees.

(2) The restrictions of this article also apply to all rest rooms and dressing rooms.

(3) Notwithstanding any provision of this Code to the contrary, it shall not be deemed unlawful for a person to expose a specified anatomical area during that person's bona fide use of a rest room.

**Section 119.31 - Violation subject to prosecution.**

A violation of any requirement of this article may be prosecuted by the city attorney in a court of competent jurisdiction and/or before the city special master for code enforcement.

**Section 119.32 - Miscellaneous.**

(a) *Appeal process.* Subject to article I, after a denial of an application for a license, or a notice of suspension or revocation of a license, the aggrieved party may timely file a notice of appeal with any court of competent jurisdiction in accordance with applicable law and court rules.

(b) *Variations.* In the event the notice of denial of an application for a license was grounded in whole or in part upon failure to comply with or satisfy all applicable zoning regulations, the applicant may apply for a variance in accordance with the provisions of the City Code. However, no variance shall be granted from Section 152.111.04(2).

(c) *Notice.* A notice required under this chapter shall be accomplished by sending a written notification by certified mail, return receipt requested, to the mailing address set forth on the application for the license. This mailing address shall be considered the correct mailing address unless the business licensing section has been otherwise notified in writing by certified

mail, return receipt requested, by the licensee of the new address. The licensee shall have the burden of proving the business licensing section received the new address.

(d) *Immunity from prosecution.* The city or an agency of the city shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult entertainment establishment while acting within the scope of its authority under this chapter.

(e) *Enforcement of this chapter.* The City Commission, Chief of Police, or state attorney may bring suit in any court of competent jurisdiction to restrain, enjoin, or otherwise present the violation of this chapter.

**Section 3.** **Repeal.** That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

**Section 4.** **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5.** **Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6.** **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by \_\_\_\_\_, seconded by \_\_\_\_\_.

**THE VOTES WERE AS FOLLOW:**

Mayor Connie Leon-Kreps	_____
Vice Mayor Eddie Lim	_____
Commissioner Stuart Blumberg	_____
Commissioner Richard Chervony	_____

**APPROVED ON FIRST READING** during a regular session of the City Commission of North Bay Village this \_\_\_ day of \_\_\_\_\_ 2012.

The motion to adopt the foregoing Ordinance on final reading was offered by \_\_\_\_\_, seconded by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION:**

Mayor Connie Leon-Kreps	_____
Vice Mayor Eddie Lim	_____
Commissioner Stuart Blumberg	_____
Commissioner Richard Chervony	_____

**PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.**

\_\_\_\_\_  
Connie Leon-Kreps, Mayor

**ATTEST:**

\_\_\_\_\_  
Yvonne Hamilton, City Clerk

**APPROVED AS TO FORM FOR THE USE OF THE CITY OF NORTH BAY VILLAGE ONLY:**

\_\_\_\_\_  
City Attorney  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

*Exh. (30)*

Weiss Serota Helfman Pastoriza  
Cole & Boniske, P.L.

# Memo

To: Planning and Zoning Board Members  
City Manager

From: Susan L. Trevarthen, Esq., AICP  
Kathryn M. Mchaffey, Esq.

Date: July 10, 2012

Subject: Summary of Adult Use Studies Regarding Zoning Regulations of Adult  
Entertainment Establishments of Land Development Regulations

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The following memorandum provides a summary of the municipal and state government summaries on the secondary effects of sexually-oriented businesses. The studies summarized below are listed in the proposed Ordinance.

1. **The “Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values” study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas)**

This study, commissioned as part of a two part study by the Texas City Attorneys Association was conducted by planning consultants, recognized as experts within the field of sexually oriented business regulations and impacts, in order to evaluate the impacts of retail-only adult businesses on the property values of surrounding properties. This study surveyed 195 Texas appraisers who were Members of the Appraisal Institute (MAI) and Senior Residential Appraisers (SRA). The survey questionnaire included a number of uses besides different types of sexually oriented businesses that appraisers often found concerning in relationship to market values in order to decrease the likelihood of targeted responses. The study found that both live and retail-only sexually oriented businesses had a large negative impact on market values of both single family homes and community shopping centers. Further, for single family homes, 86% of survey respondents felt those negative impacts would not diminish until at least a ¼ mile separation existed and 71% felt those negative impacts would not diminish until a ½ mile separation existed. For community shopping centers, 63% felt the negative effects did not diminish until at least ¼ mile away and 44% said the negative impacts did not diminish until ½ mile away. While the study focused on retail-only sexually oriented

Exh. B(1)

businesses, the survey results clearly showed the same significant impacts for sexually oriented businesses with live entertainment or video components.

**2. The “Crime-Related Secondary Effects – Secondary Effects of “Off-Site” Sexually Oriented Businesses” study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas)**

The second part of the study commissioned by the Texas City Attorneys Association is a statistical analysis which explains the criminological theory of secondary effects and applies that theory to sexually oriented businesses. The study provides analyses of other studies evaluating the crime rate impacts of sexually oriented businesses and concludes with a case study of crime data from a Texas jurisdiction. The study concludes that sexually oriented businesses pose significant public safety hazards related to prostitution, drugs, assault, robbery and vandalism. The study also analyzed a 2006 study supporting location of sexually oriented businesses. The 2008 analysis demonstrated with the 2006 study’s own data the increased risks of crime and showed that the risk diminished exponentially with distance from the sexually oriented business. As such, the sexually oriented businesses were neighborhood point-sources creating significant risk for crime victimization.

**3. “Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney” by Richard McCleary, Ph.D. (2007)(Los Angeles, California)**

This study statistically evaluated the facts and materials in *Alameda Books v. City of Los Angeles*, U.S. District Court, Central District of California, Case No. CV 95-7771, and also evaluated 2006 data to consider the differences between retail only sexually oriented bookstores and sexually oriented businesses with retail and arcade/on-site viewing components. The study developed several conclusions:

- 1) There are three factors which produce large, significant crime-related secondary effects include: 1) sexually oriented businesses draw patrons from large geographical areas; 2) because patrons are disproportionately male, open to vice overtures, reluctant to report victimizations to the police, etc., these patrons are “soft” targets; and 3) the large number of “soft” targets concentrated at the site of a sexually oriented business attracts predatory criminals, including purveyors who dabble in crime and criminals who pose as vice purveyors in order to lure or lull potential victims.
- 2) Thirty years of empirical studies employing a wide range of designs have found that sexually oriented businesses have large, significant crime-related secondary impacts.

- 3) While all sexually oriented business subclasses pose significant public safety hazards, these hazards vary based on the opportunities for different types of crime created by the subclass of business.
- 4) Considering the two subclasses of stand-alone bookstores and combined bookstore-arcades, the combined bookstore-arcade poses higher risks for crime.
- 5) The risk of victimization at the site of a combined bookstore-arcade is more than double the risk at the site of a stand alone bookstore. These risks both diminish with distance, but the two types of businesses are not equal until approximately 900 feet from the business.

**4. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio)**

This study evaluated the secondary effects of sexually oriented businesses and included an analysis of ordinances, police calls and field studies of the sexually oriented businesses in Toledo, and provided findings and recommendations for zoning, licensing and other regulatory changes. The Survey was conducted working with a steering committee which included the City's planning department, police force, building services, and legal department. Issues and concerns were additionally identified and analyzed through meetings with city council members, neighborhood groups and representatives of the sexually oriented businesses. One important issue highlighted in this report was the importance of the definitions, where the City regulated adult uses through zoning but the definitions failed to adequately identify the targets which resulted in the inability to regulate a sex toy shop with limited books and videos, as an adult entertainment establishment. The study analyzed the secondary effects of the external impacts of sexually oriented businesses on adjacent neighborhoods as well as the impacts of activities at these businesses that might not be protected by the First Amendment but that caused additional impacts in the community – often stemming from activities that started inside the business which were either unprotected activities or which often spilled out into the community.

The study found that clustering of two or more sexually oriented businesses resulted in a statistically significant increase in crime rates. There were also significant differences in criminal activity based on the type of sexually oriented business. Sexually oriented businesses with live entertainment were likely to have disproportionately higher criminal activity. For instance, in the analysis of Toledo's existing businesses, sexually oriented cabarets accounted for only 20% of the sexually oriented businesses but generated 44% of the total police calls. Adding an on-site entertainment component to any sexually oriented business, including a bookstore, lengthened the amount of time that patrons remained on the premises and increased the opportunity and likelihood for interaction with other patrons thereby increasing the negative impacts of the use above that of a simple retail establishment. In analyzing the data on a business by business type and ownership, the study concluded that the effects of Management on the secondary impacts of a business are also significant, thus supporting the need for an effective

licensing ordinance. Of the Adult Cabarets, one establishment had 102 incidents while one had 25, two had only 8 and one had no incidents reported. Of 26 calls to "encounter and touching" establishments, one establishment accounted for 69% of the calls. Of 37 calls to sexually oriented bookstores, 17 calls went to two stores which were under common ownership.

One of the major concerns identified in the study was location. A perfectly legitimate business located across from a school or in another location whereby residential neighbors, often including children, have a forced exposure to the business, will have significantly higher negative impacts on the neighborhood. The business becomes a "pig in the parlor" rather than a "pig in the barn."

The study recommended specific revisions to Toledo's ordinance including revisions to definitions, location criteria including distance criteria from sensitive uses and other sexually oriented businesses, inventory thresholds and access control, as well as extensive licensing requirements based on the type of sexually oriented business.

**5. "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998)**

In 1996, an Adult Use Study Team was established to assess the secondary impacts caused by adult use businesses on nearby properties and neighborhoods, and to determine the availability of sites for adult businesses. This Team found that adult use businesses caused negative secondary impacts to nearby properties and neighborhoods, including criminal activity, litter, noise, traffic problems, and depreciation in residential property values. A survey of residents in areas where adult use businesses were located demonstrated that the litter generated by such businesses included printed material containing pornography, used condoms, sex paraphernalia, and used syringes. The criminal activity, which was significantly higher around adult use businesses compared with the city as a whole, included disturbing the peace, public indecency, prostitution, drug-related violations, loitering, robbery, larceny, theft from motor vehicle, and urinating in public.

**6. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997)**

This report was drafted by a committee tasked with updating prior research studies completed in 1983, 1986, and 1991 in order to determine and make recommendations on any needed reforms to the city's existing sexually oriented business ordinance. The committee found that criminal activities, anonymous sex, spreading of sexually transmitted diseases, and other such acts were occurring within sexually oriented

businesses. In order to try to regulate these secondary effects, the committee determined that it was necessary to license all of the entertainers and managers of sexually oriented businesses, provide for certain configurations and lighting requirements within the businesses to aid the police department in their investigations, provide distancing requirements from the city's family centers, parks, and neighborhoods, and provide for the elimination of "glory holes" to reduce the risk of anonymous sex.

**7. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996)**

This study examined adult use studies from other cities around the country as well as the secondary effects of the adult uses currently operating in Newport News. The studies from other cities indicated that adult uses increase crime and decrease property values in the areas surrounding the uses. In Newport News, the police calls for service indicated that the adult uses experienced crime problems that impacted nearby neighborhoods or businesses. A survey of realtors in the city indicated that adult uses lessen nearby residential property values and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration. The study determined that regulation of adult uses was warranted, and after evaluating the dispersal and concentration theories, recommended spatial separation of adult uses, and separation of these uses from residential areas.

**8. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996)**

This study compiled new data, examined municipal land use studies and historical data from the late eighteenth century through 1996, and drew conclusions based on statements and conclusions of previous land use studies. This study concluded that sexually oriented businesses provide a potential focus for illicit and undesirable activities by providing a place of contact for numerous potential customers for prostitution, pandering, and other activities. In addition, when alcohol is provided on site or nearby, or when there is a large concentration of sexually oriented businesses, the quantity of undesirable activities increases. This provides for a snowball effect of undesirable activities that feed upon and support each other. The research also revealed that sexually oriented businesses have more of an impact on smaller towns than they do on larger towns. This study also concluded that when these businesses are located near residential areas or educational and religious institutions, a number of children were exposed to inappropriate models of behavior, and were victims of opportunistic personal crimes.<sup>1</sup>

In addition, it was also concluded that sexually oriented businesses have a negative impact upon both residential and commercial property values located within three blocks of the adult use. The presence of sexually oriented businesses was

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<sup>1</sup> It should be noted that it was also determined that the elderly and women were also susceptible to opportunistic personal crimes when sexually oriented businesses were located in close proximity to residential areas, or religious and educational institutions.

considered by real estate appraisers and lenders to be evidence of community decline and decay. Also, other research indicated that areas with sexually oriented businesses experience lower rates of appreciation in property values and/or higher turnover in properties in comparison to comparable areas without sexually oriented businesses.

**9. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994)**

The City of New York commenced this study following a 35% increase in adult entertainment establishments over a 10 year period. At the time of the study, New York City had no adult use regulations – a triple XXX video store was subject to the same regulations as family video store. The study evaluated existing studies in other localities, studies and reports on adult entertainment establishments in New York City and an analysis and survey of the impacts adult entertainment establishments were having on the communities in New York City. In evaluating the impacts of these establishments, the City considered impacts identified by the City Planning Commission in a 1977 study, impacts identified by the Office of Midtown Enforcement and a Chelsea Business Survey, impacts identified through public hearing, a Times Square Business Improvement District Study and in newspaper reports and correspondence. The study also included an analysis of criminal complaint data and property assessed values.

The results of the Department's study of local impacts mimicked the findings of other studies. Specifically, the location of adult uses created "dead zones" in commercial areas that shoppers avoid, greater concentrations of crime in areas surrounding adult uses especially where multiple establishments were located. These issues resulted in additional perceived issues pressuring neighboring business to hire private security guards for parking lots and closing area businesses early. A survey of 100 business owners in one New York City community found that 61% felt the location of the adult video stores in their community had a negative impact on their businesses and a telling 88% thought the potential for doing business in the area had been negatively affected by the establishments. Additional concerns identified by the City in addition to the crime, deterioration of the business and residential climates, included quality of life impacts such as littering, noise, night-time operations, offensive signage and exposure of children to inappropriate materials. The City's survey of realtors found that 80% reported that an adult entertainment establishment decreased market values as at least 500 feet from the establishment. While the Planning Department's survey of assessed values did not clearly identify negative impacts resulting from the establishment of adult uses, the Department found that the diversity of the City and the limitation of available data would make create issues with due to the difficulty in isolating specific impacts attributable to any particular land use. However, the Department found that regardless of trackable deterioration in assessed values, the perceptions created by the establishment of the adult uses created a disincentive to invest resulting in a deterioration in the neighborhood surrounding the adult establishment.

**10. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado)**

This study was an update to a 1988 study conducted by the Adams County Sheriff's Office in order to provide support for a proposed nude entertainment ordinance, which prohibited persons to appear in a "state of nudity"<sup>2</sup> for the purpose of entertaining patrons. The 1988 study consisted of two phases: first, an April 1988 study of six representative locations in Adams County was undertaken to determine the transiency of adult business customers. Second, crime statistics in two Adams County areas featuring adult businesses were gathered for the years of 1986 and 1987. The study concluded that there was a direct correlation between nude entertainment establishments and an increase in crime, alcohol related offenses, and transiency of patrons. After review of this study, the County Commissioners passed the nude entertainment ordinance which 1) restricted the hours of operation; 2) provided distance requirements; 3) provided a six-month amortization period reducing the number of adult businesses from 28 to 14; and 4) provided a public nuisance provisions for repeat or continuing violations. Subsequently, this ordinance was challenged and upheld by the Colorado Supreme Court. The court found that the ordinance did not violate constitutionally protected free speech because it did not ban nude dancing altogether and it did not unreasonably inhibit the presentation of nude dancing. The 1991 report re-evaluated the 1988 study based on 1990 statistics and found no significant changes with a few exceptions. One exception showed a block from the original study which had experienced a 900 percent increase in reported crimes including a 290% increase attributable to adult businesses offering nude entertainment and/or alcohol.

**11. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986)**

This study, done by the Department of Planning, Research and Development, the City Attorney's Office, the Police Department Data Processing Division, and New Mexico State University, involved one year of studying the impacts of sexually oriented businesses on the El Paso area. A separate report by New Mexico State University on perceived neighborhood problems was also included in this study. Three control areas and three study areas were used to evaluate the secondary effects of sexually oriented businesses. The study concluded that the following conditions existed within the study areas:

- (1) The housing base within the study area decreased substantially with a concentration of sexually oriented businesses
- (2) Property values decreased for properties located within a 1-block radius of sexually oriented businesses
- (3) There was an increase in listings on the real estate market for

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<sup>2</sup> A "state of nudity" occurs when such a person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

- properties located near sexually oriented businesses
- (4) The presence of sexually oriented businesses resulted in a relative deterioration of the residential area of a neighborhood
  - (5) There was a significant increase in crime near sexually oriented businesses
  - (6) The average crime rate in the study areas was 72% higher than the rate in the control areas
  - (7) Sex-related crimes occurred more frequently in neighborhoods with even one sexually oriented business;
  - (8) Residents in the study areas perceived far greater neighborhood problems than residents in control areas; and
  - (9) Residents in study areas had a greater fear of deterioration and crime than residents in control areas.

The study of perceived neighborhood problems done by New Mexico State University revealed a strong, consistent pattern of higher neighborhood crime, resident fear and resident dissatisfaction in the neighborhoods containing sexually oriented businesses.

**12. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005.**

This is a collection of summaries of 43 municipal and state government studies on the secondary effects of sexually-oriented businesses conducted between 1977 and 1998. The summaries identify a historical trend of negative secondary effects from sexually oriented businesses, related to all types of criminal and economic/market behaviors.

Exhibit C – See Agenda Item 11D

*Exh. C*