

TOWN OF FORT MYERS BEACH
ORDINANCE NO. -96 -04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH SEXUALLY ORENTED BUSINESSES REGULATION ORDINANCE; PROVIDING AUTHORITY; TITLE AND CITATION; PURPOSE AND INTENT; APPLICABILITY; DEFINITIONS; CLASSIFICATION; PERMIT REQUIRED; INVESTIGATION OF APPLICATION; ISSUANCE OF PERMIT; ANNUAL PERMIT FEE; INSPECTION; EXPIRATION OF PERMIT; SUSPENSION OF PERMIT; REVOCATION OF PERMIT; JUDICIAL REVIEW OF PERMIT DENIAL, SUSPENSION OR REVOCATION; TRANSFER OF PERMIT; BACK ROOM LINGERIE MODELING PROHIBITED; REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS; REGULATIONS PERTAINING TO EMPLOYEE RECORDS; PROHIBITIONS REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES; HOURS OF OPERATION; NUDITY PROHIBITED AT SEXUALLY ORIENTED BUSINESSES OFFERING FOR SALE ALCOHOLIC BEVERAGES; NUDITY AT SEXUALLY ORIENTED BUSINESSES NOT OFFERING FOR SALE ALCOHOLIC BEVERAGES SUBJECT TO PROHIBITION PURSUANT TO SECTION 800.03, FLORIDA STATUTES, AND THE U.S. SUPREME COURT DECISION IN THE BARNES V. GLEN THEATRE. INC., CASE; STRADDLE DANCING AND OTHER SEXUAL ACTIVITIES PROHIBITED AT SEXUALLY ORIENTED BUSINESSES; ADDITIONAL CRIMINAL PROHIBITIONS; ADDITIONAL OPERATIONAL PROVISIONS FOR SEXUALLY ORIENTED BUSINESSES; EXEMPTIONS; CRIMINAL PENALTIES AND ADDITIONAL LEGAL, EQUITABLE AND INJUNCTIVE RELIEF; IMMUNITY FROM PROSECUTION; NOTICE; SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION ONE: Authority

This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO: Title and Citation

This ordinance shall be known and cited as the "TOWN OF FORT MYERS BEACH SEXUALLY ORIENTED BUSINESSES REGULATION ORDINANCE."

SECTION THREE: Purpose and Intent

It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and

general welfare of the citizens of the Town of Fort Myers Beach, and to establish reasonable and uniform regulations to prevent the continued deleterious affects from sexually oriented businesses within the Town. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this Ordinance to in any way condone or legitimize the distribution of obscene material.

SECTION FOUR: Applicability

This Ordinance shall apply to, and be enforced in the Town of Fort Myers Beach.

SECTION FIVE: Definitions

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The words "shall" and "will" are mandatory and not discretionary.

A. EMPLOYEE means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business. A person may be considered an employee under this definition even if said person is an independent contractor, provided that said person has a substantial or consistent relationship with the business of, or entertainment/services provided by the sexually oriented business.

B. ESTABLISHMENT means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented or non-sexually oriented business; or

(4) The relocation of any sexually oriented business.

C. LINGERIE MODELING BUSINESS means any place where a person who appears in a state of nudity or semi-nudity or in lingerie is

provided to be observed by other persons who pay money or any form of consideration.

D. NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.

E. NUDITY or a STATE OF NUDITY means the appearance or to simulate the appearance of a human bare buttock, anus, pubic area, anal cleft or cleavage, male genitals, female genitals or the female breast at or below the areola thereof.

F. OPERATOR means and includes the owner, permit holder, custodian, manager, operator and person in charge of any permitted premises.

G. PERMITTED PREMISES means any premises that requires a permit and that is classified as a sexually oriented business under this ordinance.

H. PERMITTEE means a person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.

I. PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.

J. PHYSICAL CULTURE ESTABLISHMENT means any establishment which offers, provides or advertises massage, body rubs or physical contact with specified anatomical areas, regardless of whether or not said establishment has received a sexually oriented business permit under this Ordinance. Establishments which routinely provide medical services by State licensed medical practitioners, electrolysis treatment by permitted operators of electrolysis equipment, and massage by licensed massage therapists shall be excluded from the definition of adult physical culture establishments. It is not the intent of this Ordinance to regulate matters of massage establishments which are licensed and regulated by the Department of Professional Regulation, Board of Massage, pursuant to Chapter 480, Florida Statutes.

K. SEMI-NUDE or SEMI-NUDITY means a state of dress in which clothing covers no more than the genitals, pubic region and the areola or nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

L. SEXUAL ENCOUNTER CENTER means a sexually oriented business or similar commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or semi-nudity.

M. SEXUALLY ORIENTED ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas"

N. SEXUALLY ORIENTED BOOKSTORE, SEXUALLY ORIENTED VIDEO STORE or SEXUALLY ORIENTED NOVELTY STORE

(1) SEXUALLY ORIENTED BOOKSTORE, SEXUALLY ORIENTED VIDEO STORE or SEXUALLY ORIENTED NOVELTY STORE means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by depictions or descriptions of "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

(2) The term "principal business purpose" shall include any such commercial establishment which:

(a) Derives 25% or more of its gross monthly revenues from the sale or rental of the inventory and or materials described in Section Four n(1) (a) and (b), or

(b) Has as 25% or more of its stock in trade the inventory and/or materials described in Section Four n.(1) (a) and (b), or

(c) Devotes 25% or more of its interior business area to the sale or rental of the inventory and/or materials described in Section Four n. (1) (a) and @), or

(d) Devotes 25% or more of its advertising to the sale or rental of the inventory and/or materials described in Section Four n. (1) (a) and (b), or

(e) Does not meet one or more of the criteria in this subsection (2)(a) through (d), but does offer for sale or rental the inventory and/or materials described at Section Four n. (1)(a)

and (b) in a manner which demonstrates that the sale or rental of the aforesaid materials is a principal business purpose.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material characterized by depictions or descriptions of "specified sexual activities" or "specified anatomical areas" and still be categorized as a SEXUALLY ORIENTED BOOKSTORE, SEXUALLY ORIENTED VIDEO STORE or SEXUALLY ORIENTED NOVELTY STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a SEXUALLY ORIENTED BOOKSTORE, SEXUALLY ORIENTED VIDEO STORE or SEXUALLY ORIENTED NOVELTY STORE so long as one of its Principal business purposes is the offering for sale or consideration of the specified materials characterized by depictions or descriptions of "specified sexual activities" or "specified anatomical areas."

O. SEXUALLY ORIENTED BUSINESS means a sexually oriented arcade, sexually oriented bookstore, sexually oriented video store or sexually oriented novelty store, sexually oriented cabaret, sexually oriented motion picture theater, sexually oriented theater, physical culture establishment, lingerie modeling business, nude model studio, or sexual encounter center.

P. SEXUALLY ORIENTED CABARET means a night club, bar, bottle club as defined in Chapter 561, Florida Statutes, restaurant, or other commercial business or establishment, whether or not alcoholic beverages are served or consumed, which regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity; or
- (2) Live performances, appearances or exhibitions which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Q. SEXUALLY ORIENTED MOTION PICTURE THEATER means a commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

R. SEXUALLY ORIENTED THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

S. SHERIFF means the Sheriff of Lee County, Florida or his/her deputy sheriffs.

T. SPECIFIED ANATOMICAL AREAS means:

(1) Less than completely and opaquely covered:

(a) Human genitals or pubic region; or

(b) Buttock; or

(c) Areola or nipple of the female breast.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

U. SPECIFIED CRIMINAL ACT means:

(1) A criminal violation of this Ordinance;

(2) An offense under Chapter 794, Florida Statutes;

(3) An offense under Chapter 796, Florida Statutes;

(4) An offense under Chapter 800, Florida Statutes;

(5) An offense under Chapter 826, Florida Statutes;

(6) An offense under Section 827.04, Florida Statutes, Contributing to the Delinquency of a Minor;

(7) An offense under Chapter 837, Florida Statutes;

(8) An offense under Chapter 847, Florida Statutes;

(9) An offense under Chapter 893, Florida Statutes;

(10) An offense under any analogous statute of a state other than Florida, or under any analogous ordinance of another county or city; or

(11) An offense under either the Florida or Federal Racketeer Influenced and Corrupt Organization (RICO) Act.

V. SPECIFIED SEXUAL ACTIVITIES means:

(1) Human genitals in a state of sexual stimulation, arousal or tumescence; or

(2) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast(s); or

(3) Sex acts, actual or simulated, including, but not limited to, intercourse, oral copulation, or sodomy and also including as examples, but not limited to, any of the following: acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, necrophilia, pederasty, pedophilia, sadism, sado-masochism, sapphism, urolagnia or zoerasty; or

(4) Masturbation, actual or simulated; or

(5) Excretory functions as part of or in connection with any of the activities set forth in (1) through (4) above.

W. STRADDLE DANCE (also known as a lap dance) means the use by an employee of a sexually oriented business of any part of his/her body to touch the genital or pubic area of a person, or to touch the breast(s) of a female person, whether clothed or unclothed, while at the business; or the touching of the genital or pubic area of an employee by a person while at the business; or the touching of the breast(s) of a female employee, whether clothed or unclothed, by a person while at the business. It shall be a "straddle dance" regardless of whether the "touch" or "touching" occurs while the employee is clothed, nude, semi-nude or displaying or exposing any specified anatomical area. It shall also be a "straddle dance" regardless of whether the "touch" or "touching" is direct or through a medium.

X. TOWN MANAGER, as used in this ordinance, also includes the designee of the Town Manager.

Y. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

(1) The sale, lease, or sublease of a business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or.

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

SECTION SIX: Classification

Sexually oriented businesses are classified as follows:

A. Sexually oriented arcade

B. Sexually oriented bookstore, sexually oriented video store or sexually oriented novelty store

- C. Sexually oriented cabaret
- D. Sexually oriented motion picture
- E. Sexually oriented theater
- F. Lingerie Modeling Business
- G. Physical culture establishment
- H. Nude model studio
- I. Sexual Encounter Center

SECTION SEVEN: Permit Required

A. No sexually oriented business shall be permitted to operate without a valid permit issued by the County Manager for the particular type of business. Employees of sexually oriented businesses are required to obtain an individual permit issued by the County Manager. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business without said permit.

B. The Town Manager is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses or employees. The Town Manager shall ascertain whether a proposed sexually oriented business for which a permit is being applied for complies with all applicable zoning laws and/or land development regulations now in effect or as amended or enacted subsequent to the effective date of this Ordinance, and the Comprehensive Plan, whichever is applicable. The Lee County Sheriff's Office shall be responsible for providing information to the Town Manager on whether an applicant has been convicted of a specified criminal act during the time period set forth in Section Eight of this Ordinance by the performance of FCIC/NCIC records request check. The Manager is also responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

C. An application for a permit must be made on a form provided by the Town of Fort Myers Beach Manager's Office. Any person desiring to operate a sexually oriented business or be an employee of a sexually oriented business shall file, with the Manager, an original and two copies of a sworn permit application on the standard application form.

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

(1) If the applicant is:

(a) an employee or individual, the applicant shall state their legal name and any aliases or former legal names, a driver's license, date of birth, and submit satisfactory proof that he/she is twenty-one years of age, and provide a photograph of themselves;

(b) a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement if any;

(c) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Florida, the names and capacity of all officers, directors and stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the sexually oriented businesses fictitious name and the county of registration under Section 865.09, Florida Statutes.

(3) Whether the applicant or any of the other individuals listed pursuant to Section Six d.(1) of this Ordinance has, within the five (5) year period immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(4) Whether the applicant or any of the other individuals pursuant to Section Six d.(1) of this Ordinance has had a previous permit under this Ordinance denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation and whether the applicant or any other individuals listed pursuant to Section Six d.(1) has been a partner in a partnership or an officer, director or stockholder of a corporation that is permitted under this Ordinance whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation

(5) Whether the applicant or any other individual listed pursuant to Section Six d.(1) holds any other permits under this Ordinance and, if so, the names and locations of such other permitted businesses.

(6) The single classification of permit for which the applicant is filing. The applicant shall state the general nature of the type of sexually oriented business for which the applicant is seeking a permit, including the degree to which the anticipated activities at the business meet the definitions of the enumerated sexually

oriented businesses at Sections Four and Five of this Ordinance. Such a statement shall serve as the initial basis for the permitted activities allowed under any permit that is issued.

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

(8) The applicant's mailing address and residential address.

(9) A recent photograph of the applicant and of any person listed pursuant to Section Six d (1) of this Ordinance.

(10) The applicant's driver's permit number, Social Security number, and or his/her State or federally issued tax identification number, where appropriate. The same information shall be provided for any person listed pursuant to Section Six d (1) of this Ordinance.

(11) If the applicant is a sexually oriented business, a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The sketch or diagram shall designate any portion of the premises in which patrons will not be permitted.

(12) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as Owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

(13) If a person wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated in Section Seventeen.

(14) The names of the employees for the proposed sexually oriented business, if known, or, if presently unknown, a statement to that effect.

E. Applicants for a permit under this Section shall have a continuing duty to promptly supplement application information required by this Section in the event that said information changes

in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the Sheriff, shall be grounds for suspension of a permit.

F. In the event that the Town Manager determines or learns at any time that the applicant has not properly completed the application for a proposed sexually oriented business, or for employment at a sexually oriented business, the manager shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

G. The applicant must be qualified according to the provisions of this Ordinance and, if a sexually oriented business, the premises must be inspected and found to be in compliance with the applicable jurisdiction's health, fire and building codes and laws.

H. If the applicant is a partnership, corporation, or individual operating a sexually oriented business, the applicant shall be required to pay a non-refundable application fee of One Thousand Dollars (\$ 1,000.00) at the time of filing an application under this Section of this Ordinance if the location of the proposed sexually oriented business is in the Town of Fort Myers Beach, Applicants for employment at a sexually oriented business shall pay a non-refundable application fee of Two Hundred Fifty Dollars (\$250.00) at the time of filing an application if they intend to work in any sexually oriented business in the Town of Fort Myers Beach. All application fees shall be subject to modification by resolution of the Town of Fort Myers Beach.

I. The fact that a person possesses other types of state or county permits and/or licenses does not exempt the person from the requirement of obtaining a Town of Fort Myers Beach sexually oriented business permit to work or operate.

J. By applying for and holding a permit under this Ordinance, the applicant permittee shall be deemed to have consented to the provisions of this Ordinance and to the exercise by the Sheriffs office and all other Lee County agencies or State or municipal agencies or officers charged with enforcing the laws, ordinances and codes applicable in Town of Fort Myers Beach of their respective responsibilities under this ordinance.

SECTION EIGHT: Investigation of Application

A. Upon receipt of an application properly filed with the Town Manager, and upon payment of the non-refundable application fee, the Town Manager shall immediately stamp the application as received and shall immediately thereafter send photocopies of the

application to State and County agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this ordinance. Investigation shall be completed within twenty (20) days of receipt of the application by the Town Manager for individual or employee applicants, and completed within thirty (30) days of receipt of the application if the applicant is a partnership or corporation. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor.

B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in Town of Fort Myers Beach. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the Town Manager.

SECTION NINE: Issuance of Permit

A. The Town Manager shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, the applicant may be permitted to begin operating the business for which the permit is sought, unless and until the Town Manager notifies the applicant of a denial of the application and states the reason(s) for that denial. Nothing contained herein is intended to, or shall be construed to, exempt an applicant from compliance with all other applicable county, municipal, State and federal laws including, but not limited to, requirements to obtain a building permit, certificate of occupancy, occupational license or zoning approval.

B. Grant of Application for Permit

(1) The Town Manager shall grant the application unless one or more of the criteria set forth in Section Eight C below is present.

(2) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the date of issuance, the expiration date, and, if the applicant is a sexually oriented business, the name and address of the business. The permit shall also refer to Section 800.03, Florida Statutes, with the warning that any employee or sexually oriented business, whether or not a permit has been issued for said business under this ordinance, may be subject to said section's prohibition against public nudity pursuant to the United States Supreme Court decision in *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 115 L.Ed. 2d. 504,

111 S.Q. 2456, (1991). The permit for a sexually oriented business shall be posted in a conspicuous place at or near the entrance of the business so that it can be easily read at any time.

C. Denial of Application for Permit

(1) The Town Manager shall deny the application for any of the following reasons:

(a) An applicant is under twenty-one years of age.

(b) An applicant, or an applicant's spouse, is overdue on the payment to the Town or Lee County of taxes, fees fines, or penalties assessed against either of them or imposed upon either of them in relation to a sexually oriented business.

(c) An applicant is residing with a person who has been denied a permit to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(d) An applicant has failed to provide information reasonably necessary for the issuance of the permit or has falsely answered a question or request for information on the application form.

(e) The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.

(f) The location of the sexually oriented business does not comply with the Town Land Development Code.

(g) The application or permit fees required by this Ordinance have not been paid.

(h) An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this Ordinance.

(i) The granting of the application would violate a statute, ordinance, or court order.

(j) The applicant has a permit under this Ordinance which has been suspended or revoked.

(k) An applicant has been convicted of a specified criminal act for which:

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

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

v) An applicant who has been convicted of a specified criminal act may qualify for a sexually oriented business permit only when the time period required by Section Eight C (I)(k) has elapsed.

(2) If the Town Manager denies the application, the manager shall notify the applicant of the denial and state the reason(s) for the denial. Within twenty (20) days of such notification, excluding Saturdays, Sundays and State or Federal holidays, the County shall file an action for declaratory relief in a court of competent jurisdiction to determine the validity of the Town's action. During pendency of review, the affected applicant shall operate without a sexually oriented business permit, but not in violation of any other provision of this Ordinance. If the initial reviewing court upholds the denial, the affected applicant may not be an employee or operate without a sexually oriented business permit, unless, the affected party obtains a stay of the order of the initial reviewing court.

(3) If a person applies for a permit for a particular location within a period of nine (9) months of the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

SECTION TEN: Annual Permit Fee

The annual non-refundable fee for a sexually oriented business permit shall be two hundred and fifty dollars (\$250.00) for employees and one thousand dollars (\$1,000.00) for permittee individuals, partnerships and corporations. The fee shall be paid to the Town Manager. All annual permit fees shall be subject to

modification by resolution of the Town of Fort Myers Beach.

SECTION ELEVEN: Inspection

A. An applicant or permittee shall permit representatives of the Lee County Sheriff's Office, the Health Department, and the Fire Department to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

B. It shall be a misdemeanor if any person who operates a sexually oriented business, or that person's agent or employee, regardless of whether or not a permit has been issued for said business under this Ordinance, refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business.

SECTION TWELVE: Expiration of Permit

A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section Six of this ordinance. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected

B. When the Town Manager denies renewal of the permit, the applicant shall not be issued a permit under this Ordinance for one (1) year from the date of denial. If, subsequent to denial, the Town Manager finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at Least ninety (90) days have elapsed since the date denial became final.

SECTION THIRTEEN: Suspension of Permit

The Town Manager shall suspend a permit for a period not to exceed thirty (30) days if the Manager determines that a permittee, or an employee of a permittee, has:

A. Violated or is not in compliance with any section of this Ordinance; or

B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises; or

C. Refused to allow an inspection of sexually oriented business premises as authorized by this Ordinance; or

D. Knowingly permitted gambling by any person on the sexually oriented business premises; or

E. Operated the sexually oriented business in violation of a

building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the Town Manager shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the Town Manager shall forthwith suspend the permit and shall notify the permittee of the suspension. The suspension shall remain in effect until the Violation of the statute, code, ordinance or regulation in question has been corrected; or

F. Engaged in a permit transfer contrary to Section Fifteen of this Ordinance. In the event that the Town Manager, suspends a permit on the ground that a permittee engaged in a permit transfer contrary to Section Fifteen of this ordinance, the Town Manager shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the Town Manager is satisfied that the requirements of Section Fifteen of this Ordinance have been met; or

G. Is convicted of a specified criminal act.

SECTION FOURTEEN: Revocation of Permit

A. The Town Manager shall revoke a permit if a cause of suspension in Section Twelve of this Ordinance occurs and the permit has been suspended within the preceding twelve (12) months.

B. The Town Manager shall revoke a permit upon determining that:

(1) A permittee gave false or misleading information in the material submitted during the application process; or

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises; or

(3) A permittee or an employee has knowingly allowed prostitution on the premises; or

(4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or

(5) A permittee has been convicted of a specified criminal act for which the time period required in Section Eight of this Ordinance has not elapsed; or

(6) on two or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the

permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

(7) A permittee is delinquent in payment to the Town, State, or any municipality within the Town, for any taxes or fees past due; or

(8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises

C. When the Town Manager revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the Town Manager finds that the basis for revocation under Section Thirteen b.(7) has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked under Section Thirteen b (5) of this Ordinance, an applicant may not be granted another permit until the number of years required under Section Eight have elapsed.

SECTION FIFTEEN: Judicial Review of Permit Denial, Suspension or Revocation

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek prompt judicial review of such administrative action in a court of competent jurisdiction. Within twenty (20) days of notification of the administrative action the Town shall file an action for declaratory relief in a court of competent jurisdiction to determine the validity of the Town's action. The administrative action shall be promptly reviewed by the Court.

SECTION SIXTEEN: Transfer of Permit

A. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

B. A permittee shall not transfer the permit to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the permit from the Town Manager which provides that the other person is now the permittee, which amendment may be obtained only if he/she has completed and properly

filed an application with the Town Manager setting forth the information called for under Section Six of this Ordinance in the application; and

(2) Pays a transfer fee of twenty percent (20%) of the annual permit fee set by this Ordinance.

C. No permit may be transferred when the Town Manager has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

D. A permittee, if a sexually oriented business, shall not transfer his permit to another location.

E. Any attempt to transfer a permit either directly or indirectly in violation of this Section is hereby declared void and the permit shall be considered abandoned and shall automatically revert to the Town Manager

SECTION SEVENTEEN: Back Room Lingerie Modeling Prohibited

It shall be unlawful and a person commits a misdemeanor if:

A. That person enters into a private back room for viewing of lingerie models;

B. That person is in control of a lingerie modeling studio and if that person allows lingerie models and patrons to enter into a back room; or

C. That person is a lingerie model who enters a back room for purposes of modeling. For purposes of this Ordinance, a back room is defined as any private viewing room which the general public is not permitted to enter during the modeling session or is closed off to the general public during working hours.

It is the duty of the owners and operator of the premises to insure that at least one employee, in addition to the lingerie modeler, is on duty and is physically present in any room where lingerie modeling occurs at all times that any patron is observing lingerie modeling.

SECTION EIGHTEEN: Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos

A. A person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued to said business under this ordinance, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, Video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any Portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or -minus six (6) inches. The Town of Fort Myers Beach Community Development Administrator, or his/her designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Community Development Director, or his/her designee.

(4) It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in Subsection (5) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to insure that no patron is permitted access to any area of the premises which has

been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (1) of this Section.

(7) No viewing room may be occupied by more than one person at any one time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than one (1.0) foot candle as measured at the floor level.

(9) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

B. It shall be unlawful and a person commits a misdemeanor if that person has a duty under Section Seventeen (1) through (9) and he/she knowingly fails to fulfill that duty.

SECTION NINETEEN: Regulations Pertaining to Employee Records

A. The permittee of a sexually oriented business is responsible for keeping a record of all employees who are currently employed by the establishment and of all former employees who were employed by the establishment during the preceding one (1) year period. The record should contain the current or former employee's full legal name, including any aliases, and his/her date of birth.

B. The original records required by Section Six, or true and exact copies thereof, shall be kept at the sexually oriented business at all times and copies, including clear photographs, provided to the Town Manager.

C. Any operator of the sexually oriented business shall be responsible for knowing the location of the original records, or the true and exact photocopies thereof.

D. Any operator of the sexually oriented business shall, upon request by a law enforcement officer acting under this Ordinance or otherwise pursuant to law, make available for inspection the original records or the true and exact photocopies thereof, during normal working hours.

SECTION TWENTY: Prohibitions Regarding Minors and Sexually Oriented Businesses

A. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this Ordinance, and knowingly or with

reasonable cause to know, permits, suffers, or allows:

- (1) Admittance of a person under eighteen (18) years of age to the business premises;
- (2) A person under eighteen (18) years of age to remain at the business premises;
- (3) A person under eighteen (18) years of age to purchase or rent goods at the business premises;
- (4) A person under twenty-one (21) years of age to purchase or rent services at the business premises; or
- (5) A person who is under twenty-one (21) years of age to work at the business premises as an employee.

B. Provided, however, that for those sexually oriented businesses that offer for sale or rental for any form of consideration a tangible inventory of material, some of which is characterized by the depiction or description of specified anatomical areas or specified sexual activities and some of which is not, there shall be no violation under Section Seventeen of this Ordinance if the materials characterized by the depiction or description of specified anatomical areas or specified sexual activities are kept inaccessible to and out of the view of minors who enter the business premises. Provided further that there shall be no violation under Section Seventeen of this Ordinance by said sexually oriented businesses if minors are not allowed to purchase or rent tangible inventory of materials characterized by the depiction or description of specified anatomical areas or specified sexual activities but they are allowed to purchase or rent other tangible inventory of materials.

SECTION TWENTY-ONE: Hours of Operation

A. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, and allows such business to remain open for business, or to permit any 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 9:00 a.m. of any particular day.

B. It shall be unlawful and a person commits a misdemeanor if, working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this ordinance, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service between the hours of 2:00 a.m. and 9:00 a.m. of any particular day.

SECTION TWENTY-TWO: Nudity Prohibited at Sexually Oriented Businesses Offering for Sale Alcoholic Beverages

Town of Fort Myers Beach Alcoholic Beverage Establishment Exposure Prohibition Ordinance is hereby declared to be specifically applicable to sexually oriented businesses, regardless of whether or not a permit has been issued to said businesses under this Ordinance.

SECTION TWENTY-THREE: Nudity at Sexually Oriented Businesses Not Offering for Sale Alcoholic Beverages Subject to Prohibition Pursuant to Section 800.03, Florida Statutes, and the U.S. Supreme Court Decision in the Barnes v. Glen Theatre. Inc., case

It is hereby declared that Section 800.03, Florida Statutes, prohibiting public nudity specifically applies to sexually oriented businesses (regardless of whether or not a permit has been issued to said businesses under this ordinance), including said businesses even if no alcoholic beverages are sold, served or consumed at the premises of said businesses, pursuant to the United States Supreme Court decision in Barnes v. Glen Theatre. Inc, 501 US. 560, 115 L.Ed. 2d. 504, 11 1 S.Ct 2456(1991).

SECTION TWENTY-FOUR: Straddle Dancing and Other Sexual Activities Prohibited at Sexually Oriented Businesses

A. It shall be unlawful and a person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued under this ordinance, and knowingly or with reason to know permits, suffers or allows any employee:

- (1) To engage in a straddle dance with a person at the business;
- (2) To contract or other wise agree with a person to engage in a straddle dance with a person at the business;
- (3) To engage in any specified sexual activity at the business;
- (4) To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;
- (5) To intentionally touch any person at the sexually oriented business while engaged in the display or exposure of any specified anatomical area;
- (6) To voluntarily be within three (3) feet of any person, other than another employee, while engaged in the display or exposure of any specified anatomical area.

B. It shall be unlawful and a person commits a misdemeanor if, as an employee of a sexually oriented business, said person:

- (1) Engages in a straddle dance with a person at the business;
- (2) Contracts or other wise agrees to engage in a straddle dance with a person at the business; (?) Engages in any specified sexual activity at the business;
- (4) Displays or exposes any specified anatomical area while simulating any specified sexual activity with any other person at the business, including with another employee;
- (5) While engaged in the display or exposure of any specified anatomical area, intentionally touches a person at the sexually oriented business;
- (6) Is voluntarily within three (3) feet of any person (other than another employee) while said person/employee is engaged in the display or exposure of any specified anatomical area.

C. It shall be unlawful and shall constitute a misdemeanor for any person at any sexually oriented business, regardless of whether or not said business is permitted under this Ordinance, to intentionally touch an employee who is displaying or exposing any specified anatomical area at the sexually oriented business.

D. It shall be unlawful and shall constitute a misdemeanor offense for any person at any sexually oriented business, regardless of whether or not said business is permitted under this Ordinance, to engage in a straddle dance with an employee at the business.

SECTION TWENTY-FIVE: Additional Criminal Prohibitions

In addition to the criminal provisions found at other sections of this Ordinance, the following additional criminal provisions shall also apply to sexually oriented businesses:

A. It shall be unlawful and a misdemeanor for a permittee or an operator to operate or for any person to be an operator or employee of a sexually oriented business where the permittee, operator or employee knows or should know any of the following:

- (1) That the business does not have a sexually oriented business permit under this Ordinance; or
- (2) That the sexually oriented business has a permit which is under suspension; or
- (3) That the sexually oriented business has a permit which has expired or been canceled; or

(4) That the sexually oriented business has a permit which has been revoked.

B. It shall be unlawful and a person commits a misdemeanor if he/she alters or otherwise changes the contents of a sexually oriented business permit without the written permission of the Town Manager or his designee.

SECTION TWENTY-SIX: Additional Operational Provisions for Sexually Oriented Businesses

A. Every sexually oriented business shall, regardless of whether or not said business is permitted under this Ordinance, observe the following general requirements:

(1) Conform to all applicable building statutes, codes, ordinances and regulations, whether federal, State or local;

(2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, State or local;

(3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, State or local;

(4) Conform to all applicable zoning regulations and land use laws, whether State or local; (5) Maintain a continuously updated compilation of the records required in Section Eighteen of this ordinance and, on the first Monday of every month, provide the Town Manager with an update of those records for all persons who are, or have been, employees at the business since the first Monday of the previous month, and their positions.

B. No permittee/operator may change the name of a sexually oriented business unless and until the permittee/operator satisfies each of the following requirements:

(1) Gives the Town Manager or his designee thirty (30) days notice in writing of the proposed name change; and

(2) Pays the Town Manager or his designee a three dollar (\$3.00) change of name fee; and

(3) Complies with Section 865.09, Florida Statutes, the Fictitious Name Act.

SECTION TWENTY-SEVEN: Exemptions

A. It is a defense to prosecution for any violation of this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a college, junior college, or university supported entirely

or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or:

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude model is on the premises at any one time.

B. It is a defense to prosecution for a violation of this Ordinance that an employee of a sexually oriented business, regardless of whether or not it is permitted under this Ordinance, exposed any 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 to employees.

SECTION TWENTY-EIGHT: Criminal Penalties and Additional Legal, Equitable and Injunctive Relief

If any person fails or refuses to obey or comply with or violates any of the criminal provisions of this Ordinance, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County jail, or both, in the discretion of the Court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense

Nothing herein contained shall prevent or restrict the Town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law, for damages.

Further, nothing in this Section shall be construed to prohibit the Town from prosecuting any violation of this ordinance by means of a Code Enforcement system established pursuant to the authority of Chapter 162, Florida Statutes.

All remedies and penalties provided for in this Section shall be cumulative and independently available to the Town and the Town shall be authorized to pursue any and all remedies set forth in

this Section to the full extent allowed by law.

SECTION TWENTY-NINE: Immunity from Prosecution

Town of Fort Myers Beach, the Town Council, the Lee County Sheriffs Office, and all other departments and agencies, and all other County officers, agents and employees, charged with enforcement of State and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this ordinance.

SECTION THIRTY: Notice

Any notice required or furnished under this ordinance may be accomplished by sending a written notification by certified mail to the mailing address on the permit application. Said mailing address shall be considered the correct mailing address unless the Department is other wise notified in writing by certified mail.

SECTION THIRTY-ONE: Severability

If any one of the provisions of this ordinance should be held contrary to any express provision of law of contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance , and in no way affect the validity of all other provisions of this ordinance.

SECTION THIRTY-TWO: Repealing Clause

All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION THIRTY-THREE: Effective Date

This ordinance shall become effective September 30, 1996.

The foregoing ordinance was enacted by the Town Council upon

a motion by Council Member FITZSIMONS and seconded by Council Member Murphy and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 3rd day of June, 1996.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

Notice of Public Hearing

Pursuant to Chapter 95-494, Laws of Florida, notice is hereby given of a Public Hearing of the Town of Fort Myers Beach.

The Fort Myers Beach Town Council will hold a public hearing on June 3, 1996 at Town Hall, 2523 Estero Blvd Drive, Fort Myers Beach, Florida at 6:30 P.M. to consider the following ordinance on second reading, to be entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ,FLORIDA, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH SEXUALLY ORIENTED BUSINESSES REGULATION ORDINANCE; PROVIDING AUTHORITY ; TITLE AND CITATION;PURPOSE AND INTENT; APPLICABILITY; DEFINITIONS;CLASSIFICATION; PERMIT REQUIRED; INVESTIGATION OF APPLICATION; ISSUANCE OF PERMIT; ANNUAL PERMIT FEE; INSPECTION; EXPIRATION OF PERMIT; SUSPENSION OF PERMIT; REVOCATION OF PERMIT; JUDICIAL REVIEW OF PERMIT DENIAL; SUSPENSION OR REVOCATION; TRANSFER OF PERMIT; BACK ROOM LINGERIE MODELING PROHIBITED; REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS; REGULATIONS PERTAINING TO EMPLOYEE RECORDS; PROHIBITIONS REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES; HOURS OF OPERATION; NUDITY PROHIBITED AT SEXUALLY ORIENTED BUSINESSES OFFERING FOR SALE ALCOHOLIC BEVERAGES; NUDITY AT SEXUALLY ORIENTED BUSINESSES NOT OFFERING FOR SALE ALCOHOLIC BEVERAGES SUBJECT TO PROHIBITION PRUSUANT TO SECTION 800.03 , FLORIDA STATUES, AND THE U.S. SUPREME COURT DECISION IN THE BARNES V. GLEN THEATRE INC. CASE; STRADDLE DANCING AND OTHER SEXUAL ACTIVITIES PROHIBITED AT SEXUALLY ORIENTED BUSINESSES; ADDITONAL CRIMINAL PROHIBITIONS; ADDITIONAL OPERATIONAL PROVISIONS FOR SEXUALLY ORIENTED BUSINESSES; EXEMPTIONS; CRIMINAL PENALTIES AND ADDITIONAL LEGAL, EQUITABLE AND INJUNCTIVE RELIEF; IMMUNITY FROM PROSECUTION; NOTICE; SEVERABLILITY; REPEALING CLAUSE AND EFFECTIVE DATE.

The proposed ordinance is on file and may be inspected at the Fort Myers Beach Public Library, 2755 Estero Boulevard, Fort Myers Beach, Florida, or Town Hall. All interested parties may appear at the meeting and be heard with respect to the proposed ordinance. If a person decides to appeal any decision of the body with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings to be made, which record includes the testimony and evidence upon which the appeal is to be based.

Attest

Marsha Segal-George, Town Manager

Facial 1/2/96