

## **ORDINANCE NO. 2022-15**

**AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16 “ZONING REGULATIONS,” ARTICLE II “ADMINISTRATION,” BY DELETING IN ITS ENTIRETY CURRENT DIVISION 11 “ADULT ENTERTAINMENT ESTABLISHMENTS” AND ADOPTING A NEW DIVISION 11, ENTITLED “ADULT ENTERTAINMENT ESTABLISHMENT,” WHICH SHALL FORMALLY INCORPORATE PALM BEACH COUNTY’S ADULT ENTERTAINMENT CODE, AND SETTING FORTH THOSE SPECIFIC OPT-OUT PROVISIONS FROM THE COUNTY’S ADULT ENTERTAINMENT CODE; PROVIDING FOR SEVERABILITY, PRESERVATION, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, In order to preserve and safeguard the health, safety, property values and general welfare of the people, businesses and industries of the City, it is necessary and advisable for the City to regulate adult entertainment establishments; and

**WHEREAS**, it is necessary and advisable for the City to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers and customers at adult entertainment establishments throughout the City; and

**WHEREAS**, the City Council recognizes the need to update its ordinances regarding adult entertainment establishments in order to ensure that such establishments comply with the regulatory requirements of this ordinance amendment prior to such businesses being permitted to operate in the City; and

**WHEREAS**, the City Council recognizes that by updating its adult entertainment code, as set forth herein it will allow establish essential regulations and requirements that must be complied with by any adult entertainment establishment in the City; and

**WHEREAS**, the City Council of the City of Greenacres legislatively determines and declares that creation of a new adult entertainment code as set forth herein is in the public interest of the health, safety and general welfare of the residents and business community of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:**

**SECTION 1. LEGISLATIVE FINDINGS, INTENT AND PURPOSE.** The WHEREAS clauses contained herein are legislatively determined to be true and correct and are incorporated herein and represent the legislative findings of the City Council. It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents of the City, to ensure the proper regulatory requirements for adult entertainment establishments.

**SECTION 2. BOUNDARIES.** That this Ordinance shall apply to all properties located within the boundaries of the City of Greenacres, Florida.

**SECTION 3. DELETION OF CHAPTER 16. ZONING REGULATIONS, ARTICLE II ADMINISTRATION, DIVISION 11. ADULT ENTERTAINMENT ESTABLISHMENTS.** The City Council hereby deletes, in full, Chapter 16. Zoning Regulations, Article II. Administration, Division 11. Adult Entertainment Establishments.

**SECTION 4. CREATION OF NEW CHAPTER 16. ZONING REGULATIONS, ARTICLE II ADMINISTRATION, DIVISION 11. ADULT ENTERTAINMENT ESTABLISHMENTS.** The City Council hereby amends the Greenacres Code by adopting new Chapter 16. Zoning Regulations, Article II. Administration, Division 11. Adult Entertainment Establishments, which shall read as follows:

**ARTICLE II. – ADMINISTRATION**

**DIVISION 11. – ADULT ENTERTAINMENT ESTABLISHMENTS**

**Sec. 16-221. – Title.**

This Division shall be known as the “Adult Entertainment Code” of the City.

**Sec. 16-222. – Authority and Jurisdiction.**

The Adult Entertainment Code of the City is enacted in the interest of the public health, safety, and general welfare of the people of the City and pursuant to the authority of the City to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States.

The Adult Entertainment Code shall be effective throughout the City.

**Sec. 16-223. – Findings of Fact.**

In addition and supplemental to the findings and determinations contained in the "Whereas" provisions, which are incorporated by reference into this section, the City Council acting in its legislative capacity for the purpose of regulating adult entertainment establishments, hereby makes the following findings of fact:

Based on the evidence and testimony presented at public hearings before the City Council, and on the findings incorporated in the United States Attorney General's Commission on Pornography (1986), A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values, conducted by the Department of Metropolitan Development, City of Indianapolis, 1984; Adult Entertainment Businesses Study for Manatee County, Manatee County Planning and Development Department, June 1987; Adult Entertainment Study, Department of City Planning, City of New York, November 1994; Director's Report Proposed Land Use Code Text Amendment adult Cabarets, Department of Construction and Land Use, City of Seattle, March 1989; Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, Hubert H. Humphrey, III, Attorney General, State of Minnesota, June 6, 1989; Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, Department of City Planning, City of Los Angeles, June 1997; and the Palm Beach County Adult Entertainment Code, the City finds that:

(1) Establishments exist or may exist within the city where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties and/or devices which depict, illustrate, describe or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold.

(2) Establishments exist or may exist within the City:

a. Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

b. Where dancers, entertainers, performers or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical areas; or

c. Where lap dancing occurs.

(3) The activities described in subsections (1) and (2) of this section 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 the people of the City.

(4) The competitive commercial exploitation of such nudity and semi-nudity is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

(5) The commercial exploitation of nudity and semi-nudity 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) In order to preserve the public peace and good order, and to safeguard the health, safety and welfare of the community and citizens thereof, 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 establishments subject to this article.

(7) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this article and an increase in criminal activities, moral degradation and disturbances of the peace and good order of the community, and the concurrences 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.

(8) When the activities described in subsections (1) and (2) of this section are presented in establishments within the City, other activities which are illegal, immoral 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.

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

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

(11) In order 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) of this section occur.

(12) The potential dangers to the health, safety, and general welfare of the people of the City from the activities described in subsections (1) and (2) of this section occurring at establishments without first obtaining a license under this chapter are so great as to require the licensure of such establishments prior to their being permitted to operate.

(13) Sexually oriented businesses are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaison of a casual nature.

(14) The concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulations of sexually oriented businesses in order to protect the health and well-being of the citizens.

(15) Licensing is a legitimate reasonable means of accountability to ensure that operators of sexually oriented businesses comply with the reasonable regulations within the adult entertainment code and the locational requirements of the city zoning regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

**Sec. 16-224. – Opting into County Adult Entertainment Code.**

(1) The City hereby opts into the County Adult Entertainment Code, as amended from time to time.

(2) The City Manager, or their representative, shall provide to the occupational licensing department of the County, the designation of city departments and contact persons for the City who have been delegated the responsibilities outlined in following sections:

a. The Building Division is responsible for inspecting any proposed establishment for which a license is being applied for in order to ascertain whether it complies with division 3 of the County Adult Entertainment Code and all applicable building codes, statutes, ordinances and regulations in effect in the City. The respective 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 the County Adult Entertainment Code.

b. The Fire Rescue Department is responsible for the inspection of licensed premises or any proposed or existing establishment to ascertain whether it complies with division 3 of the county adult entertainment code and all applicable fire codes, statutes, ordinances and regulations in effect in the City.

c. The Planning, Engineering and GIS Division of the Development and Neighborhood Services Department is responsible for ascertaining whether a proposed or existing establishment for which a license is being applied for complies with division 3 of the County Adult Entertainment Code and all applicable zoning regulations in effect in the city.

**Sec. 16-225. – Replacement of the County Adult entertainment Code's prohibitions at establishments allowing alcoholic beverages.**

(1) The City hereby opts out of those provisions set forth in section 17-182 of the County Adult Entertainment Code to the extent that such provisions allow or permit alcoholic beverages at an adult entertainment establishments. This opt-out provision shall apply to the extent that any such adult entertainment establishment dealing in alcoholic beverages as set forth in this Code and section 17-182 of the County Adult Entertainment Code shall not be

permitted, authorized or licensed to sell, serve, consume or possess any alcoholic beverages.

(2) In addition and supplemental to the findings and determinations contained in the "Whereas" provisions and the Findings of Fact, the City Council, acting in its legislative capacity for the purpose of regulating nudity and other sexual conduct in establishments dealing in alcoholic beverages, as authorized pursuant to the Twenty-First Amendment, finds that:

a. Considering what has happened in other communities, the acts prohibited in subsection (3) herein, encourage or create the potential for the conduct of prostitution, attempted rape, rape, assault, and other crimes, in and around establishments dealing in alcoholic beverages;

b. Actual and simulated nudity and sexual conduct and the depiction thereof, coupled with alcohol in public places produces and has the potential for producing undesirable behavior;

c. Sexual, lewd, lascivious, and salacious conduct among patrons and employees within establishments dealing in alcoholic beverages results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct; and

d. It is the intent of this ordinance to prohibit nudity, gross sexuality, and the simulation and depiction thereof in establishments dealing in alcoholic beverages.

(3) The following prohibitions and criteria shall apply within and around those establishments that are either dealing in or are permitted, authorized or licensed to sell, serve, consume or possess any alcoholic beverages:

a. No person shall knowingly or intentionally appear, or cause another person to appear nude, or expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks, or any simulation thereof.

b. No female person shall knowingly, intentionally or recklessly expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof, and no person shall knowingly, intentionally or recklessly cause a female person to expose any portion of her breasts directly or laterally below the top of the areola, or any simulation thereof.

c. No person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any person to appear nude or to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the buttocks or simulation thereof.

d. No person or entity maintaining, owning or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any female person to

expose to public view her breasts, directly or laterally, below the top of the areola or any simulation thereof.

e. No person shall engage in and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit any sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act which is prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or the simulation thereof.

f. No person shall cause and no person maintaining, owning, or operating an establishment dealing in alcoholic beverages shall suffer or permit the exposition of any graphic representation, including pictures or images by the projection of film or video images on a television or a monitor, which depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts directly or laterally below the top of the areola; sexual intercourse; masturbation; sodomy; bestiality; oral copulation; flagellation; any sexual act prohibited by law; touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; or any simulation thereof. This subsection shall not be construed to prohibit the showing of movies, tapes or video cassettes that contain a movie industry rating of "R" or "PG-13."

**Sec. 16-226. – Replacement of Prohibited Locations and Measurement of Distance of the County Adult Entertainment Code; establishing the proximity to certain establishments restricted.**

(1) Notwithstanding any other provision of this Chapter or any provision of the City's Zoning Regulations or the Greenacres Code, no person shall propose, cause or permit the operation of, or enlargement of, an adult entertainment establishment which, while in operation or after enlargement, would or will be located within fifteen hundred (1,500) feet of:

a. Any other adult entertainment establishment within or without the municipal limits of the city as defined in [section 16-1](#).

b. Any establishment for the sale of beer, wine, or intoxicating liquor for consumption on or off the premises; pawnshops, pool or billiard hall, penny arcade or other business establishment having as a substantial or significant portion of its business the operation of coin-operated amusement devices.

c. Publicly-owned lands used as recreational facilities, administrative functions or public safety functions.

d. Any church or house of worship.

e. Any college, university, public school, private school, licensed private nursery or pre-school or day care center.



(2) In addition to the distance requirements set forth in subsection (1), an adult entertainment establishment shall only be allowed in areas designated as Commercial Intensive adjacent to South Military Trail.

(3) The distance requirements of subsection (1) are independent of and do not supersede the distance requirements for any other establishment that may be contained in other laws, rules, ordinances or regulations.

(4) All measurements of distances shall be along a straight airline route from the farthest point on any property line to the nearest point on any property line of any property or use described herein for establishing the proximity restrictions to certain establishments.

**SECTION 5. SEVERABILITY.** Should any one or more of the provisions or element of this ordinance be held invalid, such provision or element shall be null and void, and shall be deemed separate from the remaining provisions or elements of this ordinance and shall in no way affect the validity of any of the remaining provisions or elements of this ordinance.

**SECTION 6. PRESERVATION.** All pending code compliance cases and code compliance orders existing at the time of the adoption of this ordinance are preserved and shall remain in full force and effect. All code compliance cases to be taken before the special magistrate after the date of adoption of this ordinance shall be processed in accordance with this ordinance. All requests for a release or partial release of an existing code compliance order which are made after the date of the adoption of this ordinance shall be processed in accordance with this ordinance.

**SECTION 7. CONFLICTS.** All other ordinances and resolutions in conflict with this ordinance are hereby cancelled, repealed or revised to be consistent with provisions and elements of this Ordinance.

**SECTION 8. CODIFICATION.** Specific authority is hereby granted to codify Section 4 of this Ordinance by removing the current Division 2, entitled "Code Enforcement", as set forth in Chapter 2, Article III; and, replacing it with the newly created Article VIII, entitled "Code Compliance", to be set forth at Chapter 2. The sections set forth in Section 4 of this Ordinance may be renumbered to accomplish such intentions.

**SECTION 9. EFFECTIVE DATE.**



Passed on the first reading this 15<sup>th</sup> day of August, 2022.

PASSED AND ADOPTED on the second reading this 14<sup>th</sup> day of September, 2022.

Voted:

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**Joel Flores**, Mayor

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**John Tharp**, Deputy Mayor

Attest:

Voted:

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**Quintella Moorer**, City Clerk

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**Peter Noble**, Council Member, *District II*

Voted:

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**Judith Dugo**, Council Member, *District III*

Voted:

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**Suzy Diaz**, Council Member, *District IV*

Voted:

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**Paula Bousquet**, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

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**Glen J. Torcivia**, City Attorney