

ORDINANCE NO. 2007-06

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON PLACING A MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF ADULT BUSINESSES WITHIN THE CITY OF AMERICAN CANYON BY IMPOSING A MORATORIUM ON THE RECEIPT, PROCESSING, OR APPROVAL OF APPLICATIONS FOR BUSINESS LICENSES OR FOR PERMITS FOR ADULT ENTERTAINMENT BUSINESSES IN THE CITY OF AMERICAN CANYON

WHEREAS, the City of American Canyon Municipal Code ("Municipal Code") section 19.05.050 classifies "Adult Businesses" as a commercial use and defines "Adult Business" as follows:

Any business wherein the predominant business is the offering of entertainment, services, materials and/or products that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas. This classification includes, but is not limited to, adult movie arcades, adult bookstores, adult theaters, adult cabarets, model studios, and sexual novelty shops.

WHEREAS, no Adult Businesses are currently established or operated within the City of American Canyon; and,

WHEREAS, the City of American Canyon Municipal Code currently contains minimal regulations regarding the establishment and operation of Adult Businesses; and,

WHEREAS, the City of American Canyon has been informed and believes that certain entrepreneurs are considering establishing and operating one or more Adult Businesses within the City of American Canyon; and,

WHEREAS, the City of American Canyon desires to study, consider, and then develop more comprehensive regulations regarding the establishment and operation of Adult Businesses, including, but not limited to, regulations clearly defining the types of businesses subject to said regulations, establishing the procedures for submittal, review, and approval of applications for the establishment of Adult Businesses, delineating acceptable locations for Adult Businesses, and generally regulating the operations of and conduct at Adult Businesses; and,

WHEREAS, the City of American Canyon intends its regulations pertaining to the establishment and operation of Adult Businesses to be harmonious and in compliance with those rights afforded by the Constitution of this State and of the United States, as well as with the laws of this State, including but not limited to Government Code section 65850.4;

NOW, THEREFORE, the City Council of the City of American Canyon does ordain as follows:

SECTION 1: Moratorium. In order to protect the public health, safety, and welfare, and pursuant to the provisions of Government Code section 65858, a Moratorium is hereby placed on the following:

The receipt, processing, or approval of any applications for a business license for the establishment or operation of an "Adult Business" as currently defined in Chapter 19.05 of the Municipal Code, and on the receipt, processing, or approval of any applications for a conditional use permit for Adult Businesses pursuant to Chapter 19.42 of the Municipal Code.

SECTION 2. Declaration of Urgency. This urgency is based on the following facts:

- a. The City of American Canyon is informed and believes that there is a current and immediate possibility that at least one individual or company is currently considering establishing and operating an Adult Business in the City of American Canyon.
- b. Government Code section 65850.4 allows legislative bodies such as the City Council for the City of American Canyon to rely on the experiences of other counties and cities and on the findings of court cases in establishing the reasonableness of an ordinance and its relevance to the specific problems it would address, including the harmful secondary effects that an Adult Business may have on a community and the Adult Business' proximity to churches, schools, residences, establishments dispensing alcohol, and other Adult Businesses.
- c. The City of American Canyon Municipal Code currently contains minimal zoning regulations regarding Adult Businesses, and no regulations regarding the licensing and operations of Adult Businesses. Should an Adult Business obtain the necessary entitlements to be

established and to operate with the City of American Canyon, there would be no regulatory scheme in place to control the possible negative secondary effects, such as depreciation of property values and increased vacancy rates, crime, litter, noise, and vandalism. The possibility of these secondary effects constitutes a current and immediate threat to the public health, safety, and welfare of the City of American Canyon and its residents.

- d. The City of American Canyon requires time to consider, study, and decide:
 1. What additional regulations, if any, are necessary to protect the public, health, safety and welfare and to adequately regulate the establishment and operation of Adult Businesses within the City of American Canyon and to set procedures and standards for same.
 2. The legality of any proposed regulations pertaining to Adult Businesses.

SECTION 4. Report on Urgency Interim Ordinance. The City Attorney or other official or staff member designated by the City Council is directed to provide a written report to the City Council at least ten days prior to the expiration of this ordinance, which report shall describe the measures taken to alleviate the condition which led to the adoption of the instant ordinance.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon the date of its adoption pursuant to Government Code sections 65858 and 36937.

SECTION 6. Expiration. This Moratorium shall be of no further force or effect upon the expiration of forty-five (45) days from the date of adoption, unless extended in accordance with the provisions Government Code section 65858.

SECTION 7. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and adopted this ordinance and each section,

sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.


The foregoing Ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of June, 2007, and was passed and adopted at said regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of June, 2007 by the following vote:

AYES: Garcia, Bennett, Callison, Coffey, West
NOES: None
ABSTAIN: None
ABSENT: None



Leon Garcia, Mayor

ATTEST:



Cherri Walton, Deputy City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney