



Commission Agenda Item

MEETING DATE: October 21, 2013

SUBJECT: Ordinance 13-15; An Ordinance Related to the Amendment of the City's Land Development Regulations; Amending Article 10, Definitions, Section 10.2, Sexually Oriented Businesses.

AGENDA SECTION: Public Hearings and Ordinances

DEPARTMENT: Planning & Community Development

PREPARED BY: Kathy Winburn, AICP, Planning & Community Development Director

RECOMMENDED ACTION: Approve Ordinance 13-15 on First Reading; Schedule Second and Final Reading for November 4, 2013.

Summary

City Staff is updating the City's sexually oriented business ordinance contained within the Land Development Regulations and recommends clarification of certain definitions in Article 10, Section 10.2 in order to ensure that the regulations are in conformance with the First Amendment protection afforded to sexually oriented businesses. Additionally, legal rulings involving such businesses and uses can result in changes to how these types of uses should be regulated and defined.

A joint workshop of the City Commission and Planning & Zoning Board was held on October 7, 2013 to discuss the proposed amendments. All of the members of the City Commission and the Planning and Zoning Board were in attendance at the October 7, 2013 workshop. During the workshop, testimony was provided by expert Dr. Eric Damian Kelly, Ph.D, FAICP, who was retained by the City to assist the City with the technical updates to the Land Development Regulations dealing with sexually oriented businesses. Dr. Kelly assisted with drafting the original regulations for the City in 2003. Dr. Kelly also assisted the City in 2011 with the adoption of the City of Alachua Gateway Overlay District. He reviewed the City's existing regulations from a planning and legal perspective, and provided the proposed revisions for review and comment by staff, resulting in the suggested revisions as set forth in Ordinance 13-15 (attached). The text of the proposed amendments are shown in a ~~strike through~~ (text to be removed) and underscore (text to be added) format.

The following exhibits are being submitted as part of the legislative record for this item:

Exhibit 1: Resume for Dr. Eric Damian Kelly, Ph.D, FAICP

Exhibit 2: CD of the Legislative Record for Ordinance 04-01, which is the City's sexually oriented business ordinance now contained in Article 4 of the Land Development Regulations. This CD and the CD containing Exhibit 3 were provided to the City Commission on approximately September 26, 2013.

Exhibit 3: CD containing 6 additional articles/studies regarding the impacts of sexually oriented businesses, which further quantify the adverse secondary effects of these businesses. These studies are as follows:

1. Survey of Texas Appraisers; Secondary Effects of Sexually Oriented Businesses on Market Values
2. Survey of Florida Appraisers: Effects of Land Uses on Surrounding property Values.
3. Crime Related Secondary Effects of Sexually Oriented Businesses: Report to the Hillsborough County Commission
4. Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard
5. Adult Entertainment Business in Oklahoma City A Survey of Real Estate Appraisers
6. Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles

Exhibit 4: Original of the transcript of the October 7, 2013 Joint City Commission/Planning & Zoning Board Workshop.

Exhibit 5: Original transcript of the October 8, 2013 Planning & Zoning Board meeting.

Planning & Zoning Board Decision

The Planning & Zoning Board held a public hearing on October 8, 2013, and found the proposed text to be consistent with the Comprehensive Plan and in compliance with the Land Development Regulations and voted 5-0 to transmit the proposed amendments to the City Commission with a recommendation to approve.

ATTACHMENTS:

1. Draft Ordinance 13-15 in strike through/ underline format
2. Draft Ordinance 13 15 in final format
3. October 8, 2013 Staff Report to the Planning & Zoning Board
4. October 8, 2013 Planning & Zoning Board Meeting Public Notice Affidavits
5. October 21, 2013 City Commission Meeting Notice Affidavits

REVIEWED BY CITY MANAGER:



ORDINANCE 13 15

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE 10, DEFINITIONS, SECTION 10.2, BY AMENDING THE FOLLOWING DEFINITIONS: MESSAGE PARLOR; SEX SHOP; SEXUAL CONDUCT; SEXUALLY EXPLICIT MEDIA; SEXUALLY ORIENTED BUSINESS; SEXUALLY ORIENTED CABARET OR SEX ORIENTED CABARET; SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED MOTION PICTURE THEATRE, OR SEX ORIENTED CINEMA; SEXUALLY ORIENTED MEDIA STORE; AND SEXUALLY ORIENTED TOYS OR NOVELTIES; AND BY ADDING THE FOLLOWING DEFINITIONS: BATH HOUSE; MASSAGE THERAPIST AND VERTICAL DISPLAY AREA, GROSS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City of Alachua City Commission has determined that it is a valid exercise of its police power to regulate the use of land through zoning;

WHEREAS, the City of Alachua City Commission has found there to be a substantial governmental interest in regulating the secondary effects of sexually oriented businesses;

WHEREAS, on November 17, 2003, the City of Alachua City Commission passed Ordinance 04-01, which contains definitions used in conjunction with the regulation of the adverse secondary effects of sexually oriented businesses;

WHEREAS, the City of Alachua City Commission incorporates into the record of this ordinance the entire legislative record for Ordinance 04 01, which is now codified in Articles 4 and 10 of the City's Land Development Regulations;

WHEREAS, a Text Amendment to the City's Land Development Regulations ("LDRs"), as described below, has been proposed to update the definitions in Article 10, Section 10.2 as set forth below;

WHEREAS, after due public notice, the City Commission and the City's Planning and Zoning Board held a Joint Workshop on October 7, 2013 regarding the proposed amendment which included testimony from

expert Dr. Eric Damian Kelly and staff on the regulation of sexually oriented businesses, which is incorporated into the legislative record for this ordinance;

WHEREAS, a duly advertised public hearing was conducted on the proposed amendment on October 8, 2013 by the Planning and Zoning Board, sitting as the Local Planning Agency (“LPA”), and the LPA:

1. reviewed and considered the presentations and comments received during the public hearing concerning the amendment;
2. found the amendment to the definitions to be consistent with the City of Alachua Comprehensive Plan; and
3. made its recommendation for approval to the City Commission;

WHEREAS, the City of Alachua Planning and Zoning Board and the City of Alachua City Commission were provided the opportunity to review articles dealing with the regulation of sexually oriented businesses because of the adverse secondary effects caused by them;

WHEREAS, the City Commission held duly advertised public hearings on October 21, 2013 and November 4, 2013 on the proposed amendment and provided for and received public participation;

WHEREAS, the City Commission has determined and found said application for the amendment to be consistent with the City’s Comprehensive Plan and City’s LDRs;

WHEREAS, for reasons set forth in this ordinance the Alachua City Commission finds and declares that the enactment of this amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA:

Section 1. Incorporation of Recitals

The above recitals are true and correct and incorporated in this ordinance.

Section 2. Amendment to the Land Development Regulations

Article 10, Section 10.2 of the City's Land Development Regulations is hereby amended as follows (text that is underlined is to be added, text that is ~~struck through~~ is to be deleted):

Bath house means an establishment which is not a hotel, but which contains any combination of baths, showers, saunas and pools for public use and which excludes persons under the age of 18 from part or all of the facility that is open to adults.

Massage parlor ~~or shop~~ means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, massage therapist or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Massage therapist means a person licensed in accordance with F.S. ch. 480.

Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:

1. More than ten percent of its stock in trade consists of sexually explicit media and/or sex toys and novelties, or any combination thereof, and ~~I-it also~~ offers for sale ~~items from any two of the following categories: sexually oriented media; lingerie and/or; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items make up more than ten percent of its stock in trade or occupies more than ten percent of its floor area; or~~
2. More than ten percent of its gross public floor area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practires; or
3. More than ten percent of its gross vertical display area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practires; or
2. 4. More than five percent of its stock in trade consists of sexually oriented toys or novelties; or
3. 5. More than five percent of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

For the purposes of this definition, the “gross public floor area” devoted to any class of items shall include the aisles or other areas where customers stand when viewing such items as well as the actual area under the display racks for the items.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, ~~buttock~~ or female breast of ~~another~~ another person customers or members of the audience.

Sexually explicit media means magazines, books, videotapes, movies, slides, CD-ROMs, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified anatomical areas and/or sexual conduct.

Sexually oriented business ~~means is~~ an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented media store; sexually oriented motion picture theater; sex shop; ~~motion picture arcade;~~ bathhouse; and massage parlor (subject to exceptions in the separate definition of massage parlor) or shop and/or sex shop.

Sexually oriented cabaret or *sex oriented cabaret* means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by customers therein; without limiting the foregoing, the definition also includes a building or portion of a building where the waitpersons, owners, operators, managers, their agents or other service staff display specified anatomical areas for observation by others therein.

Sexually oriented cinema, sexually oriented motion picture theater or *sex oriented cinema* means a cinema or motion picture theater that shows ~~hard-core~~ sexually explicit features movies or other media on more than half the days that it is open during any 90-day period, or that ~~is marketed as or offers~~ advertises or holds itself out in any forum as offering features movies or other media described as adult, XXX or sexually oriented.

Sexually oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. 30 percent or more of the gross public floor area is devoted to sexually explicit media and/or to aisles from which customers view the displays of such media;
2. 30 percent or more of the stock in trade consists of sexually explicit media;
3. It advertises or holds itself out in any forum as XXX, adult, sexually oriented or otherwise as a sexually oriented business other than a sexually oriented movie theater or sexually oriented cabaret.

Sexually oriented toys or novelties means instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs. The use for which a device is designed, intended or marketed may be determined from: the name of the device; the shape of the device; information on the package in which the

device is offered; the retail context in which the device is offered; advertising material about the device or any combination of these factors.

Vertical display area, gross means the total of the following: 1) all wall space used for product display or for photos of or posters about specific products, as measured by the smallest rectangle that will include all of the materials on one wall plane; and 2) for each set of display shelves, racks or other display devices, the area of the smallest rectangle that is perpendicular to the floor that will include the entire display rack or device and any and all products extending above or to the side of such rack.

Section 3. Findings of Fact

1. The possession, display, exhibition, production, distribution and sale of books, magazines, motion pictures, video tapes, prints, photographs, periodicals, records, and similar devices which depict, illustrate, describe or relate to specified sexual activities is a business that exists within the City;
2. Based upon the experiences of other cities nationwide, when sexually oriented businesses are present in an area of the city, other activities tend to accompany them which are illegal or unhealthful, such as prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property; and these illegal or unhealthful activities tend to concentrate around and be aggravated by sexually oriented businesses;
3. Based upon evidence and expert testimony from the city's professional planner and Dr. Eric Kelly and based upon evidence from other communities nationwide, the grouping together of the activities described above produce adverse secondary effects including: lowers property values, detracts from the aesthetic beauty of residential, commercial and institutional neighborhoods and is harmful to minors who congregate in such residential and institutional areas;
4. Based upon evidence and testimony received from the city's professional planner and expert witnesses, there will be free and reasonable access for and to the regulated uses, and the limitations and definitions contained herein will not preclude robust competition with other regulated uses;

5. Studies in other communities have shown that some of the unacceptable secondary effects from sexually oriented businesses come from lingerie modeling studios, “massage parlors” operated by persons who are not state-licensed massage therapists, and others who engage in touching and similar activities with customers for pay. The courts have consistently held that these businesses have no First Amendment protection. Prohibiting such businesses would help minimize the future adverse effects of sexually oriented businesses on a community and would have no effect whatsoever on protected First Amendment rights.

Section 4. Conclusions of Law

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; the City’s Comprehensive Plan and applicable studies along with state and federal case decisions.

Section 4. Codification of and Correction of Scrivener’s Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 8. Effective Date

This ordinance shall take effect immediately after its passage and adoption. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this amendment has become effective.

PASSED on first reading the 21st day of October, 2013.

PASSED and **ADOPTED**, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 4th day of November, 2013.

CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA

Gib Coerper, Mayor

SEAL

ATTEST:

Traci L. Cain, City Manager/Clerk

ORDINANCE 13-15

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE 10, DEFINITIONS, SECTION 10.2, BY AMENDING THE FOLLOWING DEFINITIONS: MESSAGE PARLOR; SEX SHOP; SEXUAL CONDUCT; SEXUALLY EXPLICIT MEDIA; SEXUALLY ORIENTED BUSINESS; SEXUALLY ORIENTED CABARET OR SEX ORIENTED CABARET; SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED MOTION PICTURE THEATRE, OR SEX ORIENTED CINEMA; SEXUALLY ORIENTED MEDIA STORE; AND SEXUALLY ORIENTED TOYS OR NOVELTIES; AND BY ADDING THE FOLLOWING DEFINITIONS: BATH HOUSE; MASSAGE THERAPIST AND VERTICAL DISPLAY AREA, GROSS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the City of Alachua City Commission has determined that it is a valid exercise of its police power to regulate the use of land through zoning;

WHEREAS, the City of Alachua City Commission has found there to be a substantial governmental interest in regulating the secondary effects of sexually oriented businesses;

WHEREAS, on November 17, 2003, the City of Alachua City Commission passed Ordinance 04-01, which contains definitions used in conjunction with the regulation of the adverse secondary effects of sexually oriented businesses;

WHEREAS, the City of Alachua City Commission incorporates into the record of this ordinance the entire legislative record for Ordinance 04 01, which is now codified in Articles 4 and 10 of the City's Land Development Regulations;

WHEREAS, a Text Amendment to the City's Land Development Regulations ("LDRs"), as described below, has been proposed to update the definitions in Article 10, Section 10.2 as set forth below;

WHEREAS, after due public notice, the City Commission and the City's Planning and Zoning Board held a Joint Workshop on October 7, 2013 regarding the proposed amendment which included testimony from

expert Dr. Eric Damian Kelly and staff on the regulation of sexually oriented businesses, which is incorporated into the legislative record for this ordinance;

WHEREAS, a duly advertised public hearing was conducted on the proposed amendment on October 8, 2013 by the Planning and Zoning Board, sitting as the Local Planning Agency (“LPA”), and the LPA:

1. reviewed and considered the presentations and comments received during the public hearing concerning the amendment;
2. found the amendment to the definitions to be consistent with the City of Alachua Comprehensive Plan; and
3. made its recommendation for approval to the City Commission;

WHEREAS, the City of Alachua Planning and Zoning Board and the City of Alachua City Commission were provided the opportunity to review articles dealing with the regulation of sexually oriented businesses because of the adverse secondary effects caused by them;

WHEREAS, the City Commission held duly advertised public hearings on October 21, 2013 and November 4, 2013 on the proposed amendment and provided for and received public participation;

WHEREAS, the City Commission has determined and found said application for the amendment to be consistent with the City’s Comprehensive Plan and City’s LDRs;

WHEREAS, for reasons set forth in this ordinance the Alachua City Commission finds and declares that the enactment of this amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA:

Section 1. Incorporation of Recitals

The above recitals are true and correct and incorporated in this ordinance.

Section 2. Amendment to the Land Development Regulations

Article 10, Section 10.2 of the City's Land Development Regulations is hereby amended as follows:

Bath house means an establishment which is not a hotel, but which contains any combination of baths, showers, saunas and pools for public use and which excludes persons under the age of 18 from part or all of the facility that is open to adults.

Massage parlor means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, massage therapist or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Massage therapist means a person licensed in accordance with F.S. ch. 480.

Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:

1. More than ten percent of its stock in trade consists of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
2. More than ten percent of its gross public floor area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
3. More than ten percent of its gross vertical display area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
4. More than five percent of its stock in trade consists of sexually oriented toys or novelties; or
5. More than five percent of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

For the purposes of this definition, the "gross public floor area" devoted to any class of items shall include the aisles or other areas where customers stand when viewing such items as well as the actual area under the display racks for the items.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, or female breast of another person for the purpose of arousing or gratifying the sexual desire of customers or members of the audience.

Sexually explicit media means magazines, books, videotapes, movies, slides, CD-ROMs, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified anatomical areas and/or sexual conduct.

Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented media store; sexually oriented motion picture theater; sex shop; bathhouse; and massage parlor (subject to exceptions in the separate definition of massage parlor) and/or sex shop.

Sexually oriented cabaret or *sex oriented cabaret* means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by customers therein; without limiting the foregoing, the definition also includes a building or portion of a building where the waitpersons, owners, operators, managers, their agents or other service staff display specified anatomical areas for observation by others therein.

Sexually oriented cinema, sexually oriented motion picture theater or *sex oriented cinema* means a cinema or motion picture theater that shows sexually explicit movies or other media on more than half the days that it is open during any 90-day period, or that advertises or holds itself out in any forum as offering movies or other media described as adult, XXX or sexually oriented.

Sexually oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. 30 percent or more of the gross public floor area is devoted to sexually explicit media and/or to aisles from which customers view the displays of such media;
2. 30 percent or more of the stock in trade consists of sexually explicit media;
3. It advertises or holds itself out in any forum as XXX, adult, sexually oriented or otherwise as a sexually oriented business other than a sexually oriented movie theater or sexually oriented cabaret.

Sexually oriented toys or novelties means instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs. The use for which a device is designed, intended or marketed may be determined from: the name of the device; the shape of the device; information on the package in which the device is offered; the retail context in which the device is offered; advertising material about the device or any combination of these factors.

Vertical display area, gross means the total of the following: 1) all wall space used for product display or for photos of or posters about specific products, as measured by the smallest rectangle that will include all of the materials on one wall plane; and 2) for each set of display shelves, racks or other display devices, the area of the smallest rectangle that is perpendicular to the floor that will include the entire display rack or device and any and all products extending above or to the side of such rack.

Section 3. Findings of Fact

1. The possession, display, exhibition, production, distribution and sale of books, magazines, motion pictures, video tapes, prints, photographs, periodicals, records, and similar devices which depict, illustrate, describe or relate to specified sexual activities is a business that exists within the City;
2. Based upon the experiences of other cities nationwide, when sexually oriented businesses are present in an area of the city, other activities tend to accompany them which are illegal or unhealthful, such as prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property; and these illegal or unhealthful activities tend to concentrate around and be aggravated by sexually oriented businesses;
3. Based upon evidence and expert testimony from the city's professional planner and Dr. Eric Kelly and based upon evidence from other communities nationwide, the grouping together of the activities described above produce adverse secondary effects including: lowers property values, detracts from the aesthetic beauty of residential, commercial and institutional neighborhoods and is harmful to minors who congregate in such residential and institutional areas;
4. Based upon evidence and testimony received from the city's professional planner and expert witnesses, there will be free and reasonable access for and to the regulated uses, and the limitations and definitions contained herein will not preclude robust competition with other regulated uses;
5. Studies in other communities have shown that some of the unacceptable secondary effects from sexually oriented businesses come from lingerie modeling studios, "massage parlors" operated by persons who are not state-licensed massage therapists, and others who engage in touching and similar activities with customers for pay. The courts have consistently held that these businesses have no First Amendment protection. Prohibiting such businesses would help minimize the future adverse effects of sexually oriented businesses on a community and would have no effect whatsoever on protected First Amendment rights.

Section 4. Conclusions of Law

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; the City's Comprehensive Plan and applicable studies along with state and federal case decisions.

Section 4. Codification of and Correction of Scrivener's Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 8. Effective Date

This ordinance shall take effect immediately after its passage and adoption. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this amendment has become effective.

PASSED on first reading the 21st day of October, 2013.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 4th day of November, 2013.

CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA

Gib Coerper, Mayor

SEAL

ATTEST:

APPROVED AS TO FORM

Traci L. Cain, City Manager/Clerk

Marian B. Rush, City Attorney



City of Alachua

Planning & Community Development Department Staff Report

Planning & Zoning Board Hearing Date: October 8, 2013
Legislative Hearing

SUBJECT: A request to amend the City's Land Development Regulations (LDRs) as follows: Article 10, Section 10.2, of the City of Alachua Land Development Regulations, amending the definitions of massage parlor or shop; sex shop; sexual conduct; sexually explicit media; sexually oriented business; sexually oriented cabaret or sex oriented cabaret; sexually oriented cinema, sexually oriented motion picture theatre or sex oriented cinema; sexually oriented media store; and sexually oriented toys or novelties; and, adding definitions of bath house, massage therapist and vertical display area, gross.

APPLICANT: City of Alachua (Staff-Initiated Amendment)

PROJECT PLANNER: Kathy Winburn, AICP

RECOMMENDATION: Staff recommends that the Planning & Zoning Board transmit the proposed Land Development Regulations Text Amendment to the City Commission with a recommendation to **APPROVE**.

RECOMMENDED MOTION: *Based upon the presentation at the workshop conducted on October 7, 2013, the presentation before this Board, the studies and case law provided and referenced, and Staff's recommendation for approval, this Board finds the application to be consistent with the City of Alachua Comprehensive Plan and in compliance with the Land Development Regulations and transmits the proposed Land Development Regulations Text Amendment to the City Commission, with a recommendation to approve.*

BACKGROUND, PURPOSE, AND SUMMARY OF PROPOSED AMENDMENTS

City Staff is updating the City's sexually oriented business ordinance contained within the Land Development Regulations and recommends clarification in order to ensure that the regulations are in conformance with the First Amendment protection afforded to sexually oriented businesses. Additionally, legal rulings involving such businesses and uses can result in changes to how these types of uses should be regulated and defined.

The City of Alachua contracted with Eric Damian Kelly, Ph.D, FAICP to assist the City with the technical updates to the Land Development Regulations dealing with sexually oriented businesses. Dr. Kelly assisted with drafting the original regulations for the City in 2003. Dr. Kelly also assisted the City in 2011 with the adoption of the City of Alachua Gateway Overlay District. He has reviewed the City's existing regulations from a planning and legal perspective, and has made the suggested revisions as set forth in proposed Ordinance 13 15 and below.

Since the City's adoption of the sexually oriented business ordinance in 2003, several additional studies have been conducted/discovered which further quantify the adverse secondary effects of sexually oriented businesses. These studies are as follows:

1. Survey of Texas Appraisers: Secondary Effects of Sexually Oriented Businesses on Market Values
2. Survey of Florida Appraisers: Effects of Land Uses on Surrounding property Values.
3. Crime Related Secondary Effects of Sexually Oriented Businesses: Report to the Hillsborough County Commission
4. Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard
5. Adult Entertainment Business in Oklahoma City A Survey of Real Estate Appraisers
6. Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles

Copies of these studies are attached for your review. These studies are being incorporated into the legislative record for the City's sexually oriented business ordinance. Also attached is a CD containing the entire legislative record for Ordinance 0-04-01 (adopted November 17, 2003) which is now contained in Articles 4 and 10 of the LDRs and is also incorporated in its entirety into the legislative record for this amendment.

SUMMARY OF PROPOSED TEXT

The proposed amendments to Article 10 are described below, with the revisions shown in red (text that is ~~struck through~~ is to be removed; text that is underlined is to be added). Some of the changes include a brief commentary.

ARTICLE 10: DEFINITIONS

Bath house means an establishment which is not a hotel, but which contains any combination of baths, showers, saunas and pools for public use and which excludes persons under the age of 18 from part or all of the facility that is open to adults.

Massage parlor ~~or shop~~ means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, massage therapist or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Massage therapist means a person licensed in accordance with F.S. ch. 480.

Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:

1. More than ten percent of its stock in trade consists of sexually explicit media and/or sex toys and novelties, or any combination thereof, and ~~it also~~ offers for sale ~~items from any two of the following categories: sexually oriented media;~~ lingerie ~~and/or;~~ leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, ~~and the combination of such items make up more than ten percent of its stock in trade or occupies more than ten percent of its floor area; or~~
- ~~2.~~ More than ten percent of its gross public floor area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
- ~~3.~~ More than ten percent of its gross vertical display area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
- ~~2.~~ 4. More than five percent of its stock in trade consists of sexually oriented toys or novelties; or
- ~~3.~~ 5. More than five percent of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

For the purposes of this definition, the “gross public floor area” devoted to any class of items shall include the aisles or other areas where customers stand when viewing such items as well as the actual area under the display racks for the items.

Commentary: In Doctor John’s, Inc. v. City of Sioux City, 389 F. Supp. 2d 1096 (N.D. Iowa 2005), the court struck down as unconstitutional a definition similar to the current definition because it construed the ordinance as saying that the sale of a “single item” of adult media in a store that specialized in lingerie would turn it into an adult business. Number 3 above, related to “gross vertical display area,” was added due to the ability of a store to display sex toys on a wall, thereby taking up limited floor area.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, ~~buttock~~ or female breast of another person for the purpose of arousing or gratifying the sexual desire of ~~another person~~ customers or members of the audience.

Commentary: The above definition was common at one time but is problematic and potentially overbroad today. Reference Dream Palace v. County of Maricopa, 384 F. 3d 990, 1017 (9th Cir. Ariz. 2004) and Schultz v. City of Cumberland, 228 F. 3d 831 (7th Cir. Wis. 2000). The proposed amendment reflects the common practice of ballet dancers, as well as dancers on a popular dance competition program on network television, whereby dancers may touch their own buttocks as well as those of dance partners.

Sexually explicit media means magazines, books, videotapes, movies, slides, CD-ROMs, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified anatomical areas and/or sexual conduct.

Sexually oriented business ~~means is~~ an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented media store; sexually oriented motion picture theater; sex shop; ~~motion picture arcade~~; bathhouse; and massage parlor (subject to exceptions in the separate definition of massage parlor)~~or shop~~ and/or sex shop.

Commentary: Motion picture arcades have been effectively prohibited (reference Subsection 4.3.4(I)(1)(f) of the LDRs).

The parenthetical addition regarding massage parlors is for clarification purposes.

Sexually oriented cabaret or *sex oriented cabaret* means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by customers therein; without limiting the foregoing, the definition also includes a building or

portion of a building where the waitpersons, owners, operators, managers, their agents or other service staff display specified anatomical areas for observation by others therein.

Commentary: Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. Tenn. 2009) upheld against a vagueness challenge a definition of "adult cabaret" which addressed the exposure of waiters and bartenders. The proposed amendment therefore addresses the potential for nude or partially nude service staff.

Sexually oriented cinema, sexually oriented motion picture theater or sex oriented cinema means a cinema or motion picture theater that shows hard-core sexually explicit features movies or other media on more than half the days that it is open during any 90-day period, or that is marketed as or offers advertises or holds itself out in any forum as offering features movies or other media described as adult, XXX or sexually oriented.

Sexually oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. 30 percent or more of the gross public floor area is devoted to sexually explicit media and/or to aisles from which customers view the displays of such media;
2. 30 percent or more of the stock in trade consists of sexually explicit media;
3. It advertises or holds itself out in any forum as XXX, adult, sexually oriented or otherwise as a sexually oriented business other than a sexually oriented movie theater or sexually oriented cabaret.

Sexually oriented toys or novelties means instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs. The use for which a device is designed, intended or marketed may be determined from: the name of the device; the shape of the device; information on the package in which the device is offered; the retail context in which the device is offered; advertising material about the device or any combination of these factors.

Vertical display area, gross means the total of the following: 1) all wall space used for product display or for photos of or posters about specific products, as measured by the smallest rectangle that will include all of the materials on one wall plane; and 2) for each set of display shelves, racks or other display devices, the area of the smallest rectangle that is perpendicular to the floor that will include the entire display rack or device and any and all products extending above or to the side of such rack.

FINDINGS OF FACT: COMPLIANCE WITH LAND DEVELOPMENT REGULATIONS

Subsection 2.4.1(E)(1) of the Land Development Regulations (LDRs) states that, “in determining whether to approve a proposed text amendment to the Land Development Regulations, the City Commission shall find that an application is consistent with the following standards.” These standards are listed below, followed by Staff’s evaluation.

- (a) **Consistent with Comprehensive Plan** – Whether and the extent to which the proposed amendment is consistent with the Comprehensive Plan.

Evaluation & Findings: *This amendment does not conflict with any Goals, Objectives, or Policies of the Comprehensive Plan.*

- (b) **Consistent with Ordinances** – Whether the proposed amendment is in conflict with any provision of these LDRs or the City Code of Ordinances.

Evaluation & Findings: *This amendment does not conflict with any provisions of the LDRs or the City Code of Ordinances.*

- (c) **Changed Conditions** – Whether and the extent to which there are changed conditions that require an amendment.

Evaluation & Findings: *The changed conditions are a result of updated case law which affects how certain aspects of sexually oriented businesses may be defined and described.*

- (d) **Community Need** – Whether and the extent to which the proposed amendment addresses a demonstrated community need.

Evaluation & Findings: *The community need is based on the need to define and describe aspects of sexually oriented businesses that are consistent with case law and to the benefit of the community, so as to limit potential negative secondary effects of such businesses.*

- (e) **Compatible with Surrounding Uses** – Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zone districts in these LDRs, or will improve compatibility among uses and will ensure efficient development within the City.

Evaluation & Findings: *The proposed amendment does not affect compatibility with surrounding uses.*

- (f) **Development Patterns** – Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

Evaluation & Findings: *The proposed amendment does not have a direct impact on development patterns, since the amendment does not affect the allowable locations for sexually oriented businesses.*

- (g) **Effect on Natural Environment** – Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural

environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Evaluation & Findings: *The proposed amendment will not impact the natural environment.*

- (h) **Public Facilities** – Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water, sewage, storm water management, parks, and solid wastes).

Evaluation & Findings: *The proposed amendment will have no impact to the provision of public facilities.*



Published Daily and Sunday
Gainesville, Florida

STATE OF FLORIDA
COUNTY OF ALACHUA

Before the undersigned authority personally appeared Eryka Rollins

Who on oath says that he/she is Advertising Account Manager of THE

GAINESVILLE SUN, a daily newspaper published in Gainesville in Alachua County, Florida, that the

attached copy of advertisement, being a Notice of Public Hearing

In the matter of A Request By The City of Alachua To Amend Article 10, Section 10.2, Of The City's

Land Development Regulations

In the James A. Lewis Commission Chambers in City Hall, was published

in said newspaper in the issue of, September 26, 2013.

Affiant further says that THE GAINESVILLE SUN is a newspaper published at Gainesville, in said Alachua County, Florida and that the said newspaper has heretofore been continuously published in said Alachua County, each day, and has been entered as second class mail matter at the post office in Gainesville, in said Alachua County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount for publication in said newspaper.

Sworn to and subscribed before me this 26 Day of Sept A.D. 20 13.

Cecile Feagle
(Seal) Notary Public



arrested for ool

young semi-automatic handgun. The police discovered Mitchell, the suspect was a sophomore officer, at the school. According to reports, the boy did not intend to use the gun while at school. The suspect was arrested and taken to the School where he was charged with possession of a firearm on school grounds, possession of a firearm by a minor and discharge of a firearm in public.

Email eotero@alachuatoday.com
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CARL MCKINNEY/Alachua County Today
es gather outside the building. Three
ounded to the call.

partment, according to several firefighters who were at the building. Damage appeared to be minimal, said Mark Havelock, of the Alachua County Fire Rescue. "There was a little soot on the wall, that's about it," he said. # # #
Email cmckinney@alachuatoday.com
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NOTICE OF PUBLIC HEARING BEFORE THE PLANNING AND ZONING BOARD OF THE CITY OF ALACHUA, FLORIDA

Notice is hereby given that the Planning and Zoning Board of the City of Alachua will hold a public hearing on October 8, 2013 at 6:30 p.m. The hearing will be held in the James A. Lewis Commission Chambers in City Hall, located at 15100 N.W. 142nd Terrace, Alachua, Florida, to consider the following: a request by the City of Alachua to amend Article 10, Section 10.2, of the City's Land Development Regulations by amending the following definitions: massage parlor; sex shop; sexual conduct; sexually explicit media; sexually oriented business; sexually oriented cabaret or sex oriented cabaret; sexually oriented cinema, sexually oriented motion picture theatre, or sex oriented cinema; sexually oriented media store; and sexually oriented toys or novelties; and by adding the following definitions: bath house; massage therapist and vertical display area, gross.

At the public hearing, all interested parties may appear and be heard with respect to the proposed amendment. Copies of the proposed amendment, the Staff Report, and related materials are available for public inspection at the Planning and Community Development Department, 15100 N.W. 142nd Terrace, Alachua, Florida, on any regular business day between the hours of 7:30 a.m. to 6:00 p.m. Written comments on the proposed amendment may be sent to the following address: City of Alachua, Planning and Community Development, P.O. Box 9, Alachua FL 32616. Notice is given pursuant to Section 286.0105, Florida Statutes, that, in order to appeal any decision made at the public hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based. In accordance with the Americans with Disabilities Act, any persons with a disability requiring reasonable accommodation in order to participate in this meeting should call the City Clerk at (386) 418-6100 x. 101 at least 48 hours prior to the public hearing.

(Published: Alachua County Today - Sept. 26, 2013)

ALACHUA COUNTY TODAY

Published Weekly

Alachua, Alachua County, FLORIDA

STATE OF FLORIDA

COUNTY OF ALACHUA:

Before the undersigned authority personally appeared **ROBERT BOUKARI**, who on oath says that he (she) is the Manager of *Alachua County Today*, a weekly newspaper published at Alachua in Alachua County, Florida; that the attached copy of advertisement, being **PUBLIC NOTICE - LDR - OCT. 2013**, was published in said newspaper in the issues of **September 26, 2013**.

Affiant further says that *Alachua County Today* is a newspaper published at Alachua, in said Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said Alachua County, Florida, each week and has been entered as periodicals matter at the post office in Alachua, in said Alachua County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he (she) has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **26th day of September, 2013** by **Robert Boukari**, who is personally known to me or who has produced a drivers license as identification.


(Signature of Affiant)


(Signature of Notary Public)



H. BRYAN BOUKARI
MY COMMISSION # EE 097970
EXPIRES: May 26, 2015
Bonded Thru Budget Notary Services



THE ASSOCIATED PRESS
Pope Francis blesses a child during the weekly general audience in St. Peter's Square on Wednesday.

Pope Francis' quips keep Vatican media staff plugging away

The pope has caused a stir in topics such as atheists and the Vatican bank.

The Associated Press

VATICAN CITY — Pope Francis has grabbed headlines with his off-the-cuff homilies, crowd-pleasing one-liners and lengthy interviews during which he has pontificated on everything from the church's "obsession" with rules to how he won't judge gays. But his chattiness has gotten him into some trouble, and the Vatican has gone into damage-control mode to clarify, correct or put his comments into context. Here's a look at some of Francis' more eyebrow-raising comments and the efforts by the Vatican's spin doctors to address them.

DID FRANCIS REALLY CONSIDER TURNING DOWN THE JOB?

In an interview with the Rome daily *La Repubblica*, editor Eugenio Scalfari quoted the pope as saying he was "seized by a great anxiety" moments after his election and asked the cardinals in the Sistine Chapel to give him a few minutes time to think things over.

"To make it go away and relax, I closed my eyes and made every thought disappear, even the thought of refusing to accept the position, as the liturgical procedure allows," he was quoted as saying. "At a certain point I was filled with a great light. It lasted a moment, but to me it seemed very long. Then the light faded, I got up suddenly and walked into the room where the cardinals were waiting."

But the Rev. Thomas Rosica, who helps with Vatican media relations, later said the interview didn't reflect Scalfari's real words. He said Scalfari neither recorded the conversation nor took notes, reconstructing the conversation from memory and printing it as a verbatim interview. The Vatican doesn't dispute the overall thrust of the interview, which Scalfari said he submitted to Francis for review and which the Vatican newspaper reprinted verbatim. But Rosica said the purported "mystical" experience recounted by *Repubblica* after the election didn't happen.

CAN ATHEISTS BE SAVED?

One of the novelties introduced by Francis has been his daily 7 a.m. Mass in the Vatican hotel, to which groups and individuals are invited. Francis delivers homilies each day, the contents of which are summarized by Vatican Radio. On May 22, he caused no shortage of confusion when he suggested that even atheists could find salvation.

According to church teaching, the Catholic Church holds the "fullness of the means of salvation" — a message that has long been taken to mean that only Catholics can find salvation. But in his homily, Francis said: "The Lord has redeemed all of us, all of us, with the Blood of Christ: all of us, not just Catholics. Everyone!"

"Father, the atheists? Even the atheists. Everyone!"

Rosica issued a lengthy "explanatory note" a few days later after being inundated with questions about whether Francis was changing church doctrine on salvation. He noted that church teaching also holds that "those who through no fault of their own" don't know about Jesus but seek God and try to do his will can also attain eternal salvation.

SHOULD THE VATICAN BANK BE SAVED?

On April 24, Francis invited members of the Vatican bank to join him for Mass in the hotel. The Institute for Religious Works, as the bank is known, has been plagued by scandals — most recently over the arrest of a Vatican monsignor on charges he tried to smuggle some \$26 million into Italy from Switzerland without declaring it at customs.

Given the scandals, the arrival of a reform-minded, no-nonsense pope has prompted a flurry of speculation that Francis might shut the bank down. So imagine the headlines that followed his April 24 homily, when he lamented how the church can sometimes become too bureaucratic, too much like an aid group and that bureaucracies are necessary up to a point.

"The church isn't an NGO, it's a story of love," Francis told the bank's staff in the pews. "But there are the IOR folks here, excuse me, OK? Everything is necessary, offices are necessary, OK, but they're only necessary up to a certain point: as a help to this story of love."

Archbishop Angelo Becciu, under secretary of the Vatican secretariat of state, told the Vatican newspaper a few days later that Francis was by no means hinting that he might shut down the Vatican bank.

THE VICAR OF CHRIST SAID WHAT?

Sometimes, Francis' one-liners don't warrant Vatican clarification, but they're worth repeating simply because they came from the lips of the Successor of Peter, Vicar of Christ, Supreme Pontiff of the Universal Church:

■ Francis urged the church to "strip" itself of its worldly attachment to wealth during his Oct. 4 trip to Assisi and focus instead on the basics of Christ's teachings. "You might say, 'Can't we have a more human Christianity, without the cross, without Jesus, without stripping ourselves?'" he asked rhetorically. "In this way we'd become pastry-shop Christians, like a pretty cake and nice sweet things. Pretty, but not true Christians."

■ Francis was asked June 7 why he chose to live in the Vatican hotel rather than the fancier Apostolic Palace where his predecessors lived. "If I was living alone, isolated, it wouldn't be good for me," he told students of Jesuit schools. "A professor asked me the same question, 'Why don't you go and live there (in the papal apartments)?' And I replied: 'Listen to me professor, it is for psychiatric reasons.'"

Iranian factional disputes going public

Fights between moderates and hard-line critics have made their way into the media and other forums.

The Associated Press

TEHRAN, Iran — Iran's internal power plays have produced many moments of political theater, but never one like this: The foreign minister checks himself into a hospital because of stress, blaming it on hard-line critics of the recent thaw with Washington.

A cascade of events Wednesday suggested there was no end in sight to the ideological skirmishes following President Hassan Rouhani's outreach to the U.S.

Those overtures will be put to the test next week in Geneva when nuclear talks with world powers resume.

If Rouhani's brand of diplomacy pays off in the eyes of Iran's top policymaker, Supreme Leader Ayatollah Ali Khamenei, it could bring sharper limits on the reach of powerful factions led by the Revolutionary Guard — which has already been warned by Khamenei to stay out of politics and let Rouhani's overtures run their course.

Possible attempts by Khamenei to separate the Guard from the worlds of politics and foreign affairs would

mark a profound change on how Iran interacts with the West and offer more of flexibility in diplomacy.

"Opposition or frustration by hard-liners is a natural reaction," said Tehran-based political analyst Saeed Leilaz. "But nothing can derail Rouhani's policy of outreach to the U.S." as long as Khamenei remains nominally in his corner.

But that has not stopped critics of Rouhani's government from making their complaints heard. The nationally broadcast Friday prayers last week included the familiar chants of "Death to America." A week earlier, protesters hurled eggs and insults at Rouhani's entourage after he returned from the groundbreaking exchanges in New York.

It was capped by President Barack Obama's phone conversation with Rouhani in the highest-level dialogue between the countries since Iran's 1979 Islamic Revolution.

The latest counterpunch followed a drama that began with a report in the hard-line newspaper *Kayhan* that contained alleged misquotations of Foreign Minister Mohammad Javad Zarif that criticized the overtures with Washington. This was followed by Zarif seeking medical help because of what he called muscle spasms "due to being nervous."

Zarif claimed the newspaper *Kayhan* misquoted him as saying Rouhani's 15-minute telephone

conversation with Obama was "inappropriate." It also quoted Zarif as saying he believed it was wrong to hold a lengthy face-to-face meeting in New York with Secretary of State John Kerry.

Mohammad Hossein Naqvi, spokesman of the parliament's National Security and Foreign Policy Committee, rejected the *Kayhan* report.

The editors and management at the paper were not immediately available for comment. But in a front-page story Wednesday, *Kayhan* defended its account and said Zarif's acknowledgment "brought down the line of compromise" with the U.S.

To further complicate matters, *Kayhan's* director is appointed by Khamenei. This suggests fissures within one of the main outlets for hard-line commentary.

A major moment for Rouhani's agenda will come next week in Geneva when Iranian envoys — led by Zarif — meet with delegations from the five permanent U.N. Security Council members plus Germany in a follow-up to discussions in New York last month.

Rouhani has made it clear he wants the U.S. and allies to pull back on sanctions, which have cut Iran's vital oil exports in half and blackballed the country from international banking networks. But Iran has not announced what it will offer in return.

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The Sun

Notice of Voluntary Annexation into the City of Gainesville

NOTICE IS given that the proposed Ordinance number whose title appears below will be considered for First Reading on Thursday, October 17, 2013 at the City Commission meeting starting at 6:00 p.m. or as soon thereafter as may be heard in the City Commission Auditorium on the first floor of City Hall in Gainesville, Florida. If then adopted on the First Reading the ordinance will be considered for Final Reading and Adoption on Monday, November 4, 2013 at the City Commission meeting at 6:00 p.m. or as soon thereafter as may be heard, in the City Commission Auditorium on the first floor of City Hall in Gainesville, Florida. A copy of said Ordinance which includes a complete legal description of the area to be annexed may be inspected by any member of the public at the Office of the Clerk of Commission at 200 East University Avenue, Gainesville, FL. On both dates mentioned above all interested parties may appear and be heard with respect to the proposed Ordinance.

General Description

The area proposed for annexation is generally located south of SW Archer Road, west of Fred Bear Drive and I-75, north of SE Williston Road, and east of SW 62nd Avenue. PERSONS NEEDING SPECIAL ACCOMMODATIONS SHOULD CONTACT THE EQUAL OPPORTUNITY DEPARTMENT AT 352-334-5051 (TTD 352-334-2069) AT LEAST 48 HOURS PRIOR TO THE MEETING DATE.

Ordinance No. 130243

An ordinance of the City of Gainesville, Florida, annexing a certain portion of the City of Gainesville reserve area, as petitioned for by the property owner pursuant to Chapter 90-496, as amended, Special Act, Laws of Florida, known as the Alachua County Boundary Adjustment Act, that comprises Tax Parcel Nos. 07240-030-000, 07240-001-010, and 07242-001-000, along with a portion of the right-of-way of SW 41st Boulevard, and which is generally located south of SW Archer Road, west of Fred Bear Drive and I-75, north of SE Williston Road, and east of SW 62nd Avenue; making certain findings; providing for inclusion of the area in Appendix I of the City Charter; providing for land use plan, zoning, and subdivision regulations, and enforcement of same; providing for persons engaged in any occupation, business, trade, or profession; providing directions to the Clerk of the Commission; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Prepared by the Administrative Services Department, September, 2013

PUBLIC NOTICE OF ENACTMENT OF AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA

Notice is hereby given that the City Commission of the City of Alachua will hold a public hearing on a proposed ordinance. The hearing will be held on October 21, 2013 at 6:30 p.m., in the James A. Lewis Commission Chambers in City Hall, located at 15100 NW 142nd Terrace, Alachua, Florida.

The ordinance title is as follows:

ORDINANCE 13-15

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE 10, DEFINITIONS, SECTION 10.2, BY AMENDING THE FOLLOWING DEFINITIONS: MESSAGE PARLOR; SEX SHOP; SEXUAL CONDUCT; SEXUALLY EXPLICIT MEDIA; SEXUALLY ORIENTED BUSINESS; SEXUALLY ORIENTED CABARET OR SEX ORIENTED CABARET; SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED MOTION PICTURE THEATRE, OR SEX ORIENTED CINEMA; SEXUALLY ORIENTED MEDIA STORE; AND SEXUALLY ORIENTED TOYS OR NOVELTIES; AND BY ADDING THE FOLLOWING DEFINITIONS: BATH HOUSE; MESSAGE THERAPIST AND VERTICAL DISPLAY AREA, GROSS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

At the public hearing, all interested parties may appear and be heard with respect to the proposed ordinance. Copies of the proposed ordinance and related materials are available for public inspection at the Planning and Community Development Department, 15100 NW 142nd Terrace, on any regular business day between the hours of 7:30 a.m. to 6:00 p.m. Written comments on the proposed ordinance may be sent to the following address: City of Alachua, Planning and Community Development, P.O. Box 9, Alachua, FL 32616. Notice is given pursuant to Section 286.0105, Florida Statutes, that, in order to appeal any decision made at the public hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, any persons with a disability requiring reasonable accommodation in order to participate in this meeting should call the City Clerk at (386) 418-6100 x 101 at least 48 hours prior to the public hearing.



STATE OF FLORIDA
COUNTY OF ALACHUA

Published Daily and Sunday
Gainesville, Florida

Before the undersigned authority personally appeared Eryka Rollins

Who on oath says that he/she is Advertising Account Manager of THE

GAINESVILLE SUN, a daily newspaper published in Gainesville in Alachua County, Florida, that the
attached copy of advertisement, being a Public Notice of Enactment of An Ordinance

In the matter of Ordinance 13-15

In the James A. Lewis Commission Chambers in City Hall, was published in said
newspaper in the issue of, October 10, 2013.

Affiant further says that THE GAINESVILLE SUN is a newspaper published at Gainesville, in said Alachua County, Florida and that the said newspaper has heretofore been continuously published in said Alachua County, each day, and has been entered as second class mail matter at the post office in Gainesville, in said Alachua County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount for publication in said newspaper.

Sworn to and subscribed before me this
10 Day of Oct A.D. 20 13.

Cecile Feagle
(Seal) Notary Public



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Phone: (352) 682-4883
Email:
nutrition-study@ufl.edu
IRB #70-2013

PUBLIC NOTICE OF ENACTMENT OF AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA

Notice is hereby given that the City Commission of the City of Alachua will hold a public hearing on a proposed ordinance. The hearing will be held on October 21, 2013 at 6:30 p.m., in the James A. Lewis Commission Chambers in City Hall, located at 15100 NW 142nd Terrace, Alachua, Florida.

The ordinance title is as follows:

ORDINANCE 13-15

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE 10, DEFINITIONS, SECTION 10.2, BY AMENDING THE FOLLOWING DEFINITIONS: MASSAGE PARLOR; SEX SHOP; SEXUAL CONDUCT; SEXUALLY EXPLICIT MEDIA; SEXUALLY ORIENTED BUSINESS; SEXUALLY ORIENTED CABARET OR SEX ORIENTED CABARET; SEXUALLY ORIENTED CINEMA, SEXUALLY ORIENTED MOTION PICTURE THEATRE, OR SEX ORIENTED CINEMA; SEXUALLY ORIENTED MEDIA STORE; AND SEXUALLY ORIENTED TOYS OR NOVELTIES; AND BY ADDING THE FOLLOWING DEFINITIONS: BATH HOUSE; MASSAGE THERAPIST AND VERTICAL DISPLAY AREA, GROSS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

At the public hearing, all interested parties may appear and be heard with respect to the proposed ordinance. Copies of the proposed ordinance and related materials are available for public inspection at the Planning and Community Development Department, 15100 NW 142nd Terrace, on any regular business day between the hours of 7:30 a.m. to 6:00 p.m. Written comments on the proposed ordinance may be sent to the following address: City of Alachua, Planning and Community Development, P.O. Box 9, Alachua, FL 32616. Notice is given pursuant to Section 286.0105, Florida Statutes, that, in order to appeal any decision made at the public hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, any persons with a disability requiring reasonable accommodation in order to participate in this meeting should call the City Clerk at (386) 418-6100 x 101 at least 48 hours prior to the public hearing.

(Published: Alachua County Today - October 10, 2013)