ORDINANCE NO. 658 N.S.
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ESTABLISHING REGULATIONS FOR ADULT BUSINESSES
(CODE AMENDMENT 93003)

WHEREAS, the City Council of the City of El Paso de Robles, State of California, does hereby find, determine and declare as follows:

a. In the past the City has had no adopted regulations to control the number, location, land use impacts and development standards for "adult uses"; and

b. On July 21, 1992, the City Council unanimously adopted an urgency measure ordinance which placed a moratorium on the acceptance or processing of applications for adult businesses; and

c. On September 1, 1992, the City Council unanimously adopted an extension of 10 months and 15 days to the urgency measure ordinance; and, this ordinance shall remain in effect only until July 15, 1993 and as of such date is repealed, unless an adopted ordinance goes into effect on or before July 15, 1993, or the urgency measure ordinance is extended an additional year; and, the City has a legal obligation to provide for all types of legal land uses within the City limits; and

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d. Public hearings were conducted by the Planning Commission on May 24, 1993 and by the City Council on June 1, 1993, to consider facts as presented in the staff report and to accept public testimony regarding this proposed code amendment; and

e. This amendment establishes regulations for adult businesses for which a public hearing must be conducted and findings must be made prior to approval; and

f. That adult businesses by their very nature have serious objectionable operating characteristics which can have a detrimental effect upon the City; and

g. This code amendment applies to all qualifying properties located within the C-3 zone of the City; and

h. That the proposed code amendment will not have a significant impact on the Environment as evidenced by the conclusions and findings of the Initial Study; and

i. This code amendment does not conflict with the land use policies of the General Plan and will provide for development within the City that is consistent with the General Plan; and

j. That with adequate standards and regulations being applied, this code amendment will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements within the City; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of El Paso de Robles, California, that Title 21 (Zoning) of the Municipal Code be amended as follows;

Section I: Chapter 21.31 entitled Adult Businesses is hereby added to Title 21 (Zoning) to read as follows:

Adult Businesses

21.31.010 Purpose. The purpose and intent of this chapter is to provide for the comprehensive and orderly regulation of adult business uses. It is recognized that adult businesses possess certain objectionable operational characteristics which can have a detrimental effect upon adjacent areas. It is also recognized that locating adult businesses in the vicinity of facilities frequented by minors will cause the exposure of minors to adult material which, because of their immaturity, may adversely affect them. In addition, it is recognized that many people are offended by the

public display of certain sexual material. Therefore, special regulation of these uses are necessary to ensure that any adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or have an adverse effect on minors.

21.31.020 Definitions.

1. "Adult bookstore" means any establishment selling or renting books, magazines, periodicals or other printed matter, photographs, films, motion pictures, slides, tapes, video cassettes, record or any other forms of visual or audio representation twenty-five percent or more of which, by number, are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

2. "Adult business" means any adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult motion picture arcade, adult cabaret, adult hotel or motel, adult theater, adult model studio, body painting studio, and any other business involving "specified sexual activities" or display of "specified anatomical areas."

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3. "Adult cabaret" means any nightclub, bar, restaurant, or similar establishment which, as a preponderance of the entertainment presented, features:

a. Live performances which are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas; and /or

b. Films, motion pictures, video cassettes, or slides or other photographic reproductions whose dominant or predominant character and theme is the depiction of specified sexual activities or specified anatomical areas for the observation by patrons.

4. "Adult hotel or motel" means a hotel or motel wherein material is presented which is distinguished or characterized by more than an incidental or occasional portrayal of matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

5. "Adult mini-motion picture theater" means any establishment with a capacity of more than five, but less than six persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, in which twenty-five percent or more of the total presentation time is devoted to the showing of material whose dominant or predominant character and theme is the depiction of specified sexual activities or specified anatomical areas for observation by patrons.

6. "Adult model studio" means any establishment open to the public where for any form of consideration or gratuity, human models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculpted, photographed, or otherwise depicted by persons other than the proprietor paying such consideration or gratuity. This provision shall not apply to any school of art, firm, association, partnership, corporation or institution which meets the requirements established in the Education Code of the state of California for the issuance or conferring of a diploma.

7. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or token-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine, at any one time, and where the dominant or predominant character or theme of the images so displayed is depiction of specified sexual activities or specified anatomical areas.

8. "Adult motion picture theater" means any establishment, with the capacity of six or more persons where, for any form of consideration, films, motion pictures, slides, tapes, video

cassettes, record or any other forms of visual or audio representation twenty-five percent of which, by number, are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

9. "Adult theater" means any theater, concert hall, auditorium, or similar establishment, either indoor or outdoor in nature, which for any form of consideration and as a preponderance of the entertainment presented, features live performances whose dominant or predominant character and theme is emphasized on specified sexual activities or exposure of specified anatomical areas for observation by patrons.

10. "Body painting studio" means any establishment or business which provides the service of applying paint or any other substance, whether transparent or not, to or on the human body when such body is wholly or partially nude in terms of specified anatomical areas.

11. "Massage parlor" means any place where for an form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs. This excludes all medical and dental practitioners and any state licensed massagist operating as or in conjunction with a medical or dental office, chiropractor, beauty salon, health gym or other health related business.

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12. "Public parks and public facilities" means all public parks, recreational fields, libraries, communities centers and government buildings such as city hall, post office, county offices, police and fire stations

13. "Public or private educational facilities" means any institution of learning whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education, including any nursery school, kindergarten, elementary school, junior high school, senior high school, community or junior college, four-year college or university, or any special institution of learning under the jurisdiction of the state Department of Education. It shall also mean any public or private daycare or preschool provider with greater than six children.

14. "Religious Institutions" means any buildings which are used primarily for religious worship and related religious activities.

15. "Residentially zoned properties" means property in the R-A, R-1, R-2, R-3, R-4, R-3-O zones (with or without Planned Development Overlay).

16. "Specified anatomical areas" means and includes any of the following:

a. Less than complete and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point above the top of the areola; or

b. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

17. "Specified sexual activities" means and includes any of the following:

a. The fondling or touching of human genitals, pubic regions, buttocks, anus, or female breasts; or

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

c. Masturbation, actual or simulated; or

d. Excretory functions as part of, or in connection with, any of the activities set forth in subsections 1 through 3 of this section.

18. "Youth oriented facilities" means any facility used primarily by youths (under 18 years of age) for physical or social activities and operated by a profit or nonprofit organization such as boys and girls clubs, private recreational fields, miniature golf courses, water slides, video arcades and other recreational facilities.

<u>21.31.030 Uses Subject to a Conditional Use Permit</u> All adult businesses are allowed subject to review and approval of a conditional use permit by the Planning Commission.

<u>21.31.040 Location of Adult Businesses</u>

1. All adult businesses as defined in this chapter shall be located in the C-3 zone only.

2. Within the C-3 zone no adult businesses shall be established within 1000 feet of the following uses within or outside the city limits:

   a. Residentially zoned properties;
   b. Public or private educational facilities;
   c. Religious institutions;
   d. Public parks and public facilities;
   e. Youth oriented facilities;
   f. Another adult business as defined by this chapter.

3. Within the C-3 zone no adult businesses shall be established within 500 feet of a State Highway.

4. The distance of 1000 or 500 feet shall be measured in a straight line from the closest property line of the adult business to the closest property line of any of the above uses.

<u>21.31.050 Development Standards.</u> In addition to the minimum development standards for the C-3 zone, the following additional requirements shall be met by all adult business uses:

1. A separate business entrance shall be established adjacent to the required parking area.

2. No other non-adult businesses shall be permitted in the same building space while used as an adult business establishment.

3. All building openings, entries, windows, etc. shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from outside the building.

4. All public entrances shall be clearly and legibly posted by a notice indicating that minors are precluded from entering the premises. Said notice shall be approved and posted to the satisfaction of the Community Development Director.

<u>21.31.060 Application Requirements.</u> In addition to the submittal requirements for a conditional use permit as specified in the City's Development Handbook, the following must be submitted prior to an application being deemed complete:

1. The name and permanent address of applicant;

2. The name and proposed business address of the applicant. If the applicant is a corporation, the name shall be exactly as set forth in its article of incorporation and the applicant shall show the name and residence address of each of the officers, directors, and each stockholder owning not less than twenty-five percent of the stock of the corporation. If the applicant is a partnership, the application shall show the name and residence address of each of the members, including limited partners;

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3. A detailed description of the proposed entertainment, including type of entertainment and number of persons engaged in the entertainment;

4. Hours of operation and a floor plan showing where the specific entertainment uses are proposed to be conducted within the building and the admission fee, if any, to be charged;

5. The name or names of the person or persons who have the management or supervision responsibilities of the applicant's business and of any entertainment;

6. A statement of the nature and character of the applicant's business if any, to be carried on in conjunction with such entertainment;

7. A site area map showing the proposed business location and plotting of all uses listed in section 21.31.040 (B).

Prior to the scheduling of the conditional use permit for a public hearing, the Police Department shall complete a background investigation of all parties involved as indicated above.

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<u>21.31.070 Required Findings for Approval</u> Prior to the Planning Commission approving or conditionally approving a use permit for an adult business, the following additional findings shall be made:

1. The requested conditional use permit will not adversely affect the general plan or the public convenience or general welfare of persons residing or working in the neighborhood thereof;

2. The requested use will not adversely affect the adjoining land uses and the growth and economic development of the area in which it is proposed to be located;

3. The size and shape of the site proposed for the use is adequate to allow the full development of the proposed use in a manner not detrimental to the particular area;

4. The traffic generated by the proposed use will not impose an undue burden upon the streets and highways in the area;

5. That the conduct of entertainment, as proposed by the applicant, if permitted, will comply with all applicable laws, including but not limited to all City, county and state regulations; and

6. The applicant has not knowingly made any false, misleading or fraudulent statement of facts in the permit application, or any other document required by the city in conjunction therewith.

<u>21.31.080 Additional Public Hearing Notices</u> The public notice required for a public hearing for a conditional use permit proposing an adult business use shall include mailed notices to all property owners located within 1000 feet of the exterior boundaries of the parcel on which the business is proposed to be located. This shall be in addition to the notice requirements in section 21.23.040.A.

PASSED AND ADOPTED THIS 15th day of June, 1993, by the following roll call vote:

AYES: MACKLIN, HEGGARTY, MARTIN, PICANCO, IVERSEN

NOES: None

ABSENT: None

ABSTAIN: None

MAYOR CHRISTIAN E. IVERSEN

ATTEST:

RICHARD J. RAMIREZ, CITY CLERK

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tree, or in the removing of stone, cement, or any substance in any such street, sidewalk, planting strip, alley, or any other public place.

3. Willfully injure, or disfigure, or destroy a street tree.

4. Construct a concrete, asphalt, brick, or gravel sidewalk or otherwise fill the ground area around any tree to deplete air, light, or water from the roots, except under written authority from the Director.

5. Pile building materials, equipment, or other substance around any street tree so as to cause injury thereto.

6. Apply any injurious substance on the street tree or on the ground around it.

7. Post any sign on any tree, tree stake, or tree guard.

8. Cause damage to street trees by house moving or demolition.

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B. Any person, or persons who accidently or willfully damages, disfigures, or destroys any street tree shall be charged for the replacement costs at a fee to be determine by the Director. This fee determination shall take into consideration such things as age of the tree, size, species, etc., and may be based on the tree valuation standards published by the International Society of Arboriculture.

10.04.080 : <u>CURB, GUTTER AND SIDEWALK DAMAGE:</u>

In all cases where the Director determines that roots from street trees have caused damage to sidewalks, curbs, gutters, driveways, or to any utility, the Director will investigate the damage and may order corrective action. If corrective action is required, the City may remove or root prune such tree(s) and place root barriers. The property owner shall be responsible for the cost of repairs to any sidewalk curb, gutter, driveway, or utility caused by trees on private property. It shall be the responsibility of the property owner to remove, at his own expense, trees directly in the way of, or trees that may cause damage to, new sidewalk, curbs, gutters, or driveway approaches. Any tree removed shall be replaced with the approved tree indicated on the Master Tree Plan, or an acceptable tree from the Master Tree List (if no tree has been approved), at the property owner's expense.

10.04.090 : <u>VIOLATIONS</u>

Any person violating any section of this Chapter shall be guilty of a misdemeanor punishable by imprisonment in the City, or County jail for a period not to exceed six (6) months, or by a fine not to exceed five hundred dollars ($500.00), or both.

10.04.100 : <u>APPEALS</u>

Any person aggrieved by any act or determination of the staff or the Planning Commission in the exercise of the authority herein granted shall have the right to appeal to the Paso Robles City Council. The appeal shall include a letter stating the reasons for the appeal and be accompanied by the necessary fee.

PASSED AND ADOPTED THIS 17TH DAY OF AUGUST, 1993 BY THE FOLLOWING ROLL CALL VOTE:

AYES:

NOES:

ABSENT:

ABSTAINED:

CHRISTIAN E. IVERSEN, MAYOR

ATTEST:

RICHARD J. RAMIREZ, CITY CLERK

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