

ORDINANCE NO. 2565

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA EXTENDING FOR A PERIOD OF ONE (1) YEAR THE MORATORIUM ON THE ACCEPTANCE, PROCESSING AND/OR APPROVAL OF APPLICATIONS FOR ADULT-ORIENTED RECREATION BUSINESSES, AS PREVIOUSLY ESTABLISHED BY ORDINANCE NO. 2558

WHEREAS, on May 18, 1993, the City Council adopted Ordinance No. 2558 to establish, as an interim and urgency measure, a 90-day moratorium on the issuance of land use permits for Adult-Oriented Recreation Businesses in order to study whether or not our present standards provide adequate safeguards from the negative impacts which can be associated with such uses; and,

WHEREAS, during the past 90 days, staff has reviewed and evaluated reports, studies and surveys on the impacts of adult-oriented recreation businesses prepared by other cities nationwide; regulations and standards of 17 jurisdictions within the region; recent legal trends addressing the constitutional limits on such regulation; Chula Vista's existing standards, and their application to potential sites throughout the City; and,

WHEREAS, the studies and reports provide preliminary evidence that adult oriented businesses can and often do produce and augment the social, economic and physical decline of adjacent areas, thereby indicating that further study and treatment are justified; and,

WHEREAS, many other cities within the County of San Diego generally have more restrictive standards, which could have the effect of overconcentrating such businesses in Chula Vista unless our zoning ordinances are adjusted, within constitutional limits, to properly distribute such uses fairly throughout the County, thereby further indicating that additional study and treatment are justified; and,

WHEREAS, staff has recommended that a period of approximately one (1) year would be needed to complete review of available studies and reports, undertake field investigations of adult entertainment sites in other areas of the region, prepare and process a zoning text amendment through the Planning Commission and Council if same may be necessary, initiate and complete environmental review, and conduct public hearings.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby find, determine, resolve, order and ordain as follows:

SECTION I: Proper Procedure Followed. This Ordinance was passed by four affirmative votes of the City Council after said City Council conducted a public hearing duly noticed and held in the manner required by Section 19.12.130.

SECTION II: Moratorium Extended. The interim moratorium on the application for, processing, or issuance of any zoning, rezoning, land use permits, conditional use permits, variances and building permits (collectively "Permits") for Adult-Oriented Recreation Businesses as the term is defined in the City of Chula Vista Municipal Code, and specifically at Section 19.58.024, within the City of Chula Vista, established by the passage and adoption of Ordinance 2558 on May 18, 1993 ("Moratorium"), is hereby extended to, and shall remain in full force and effect according to its terms except as modified herein, for one (1) year from the date of adoption hereof (i.e., August 9, 1994) unless sooner terminated or further extended by the City Council, except that an application for or processing of such Permits, not the issuance of Permits, may be allowed upon application to, and approval by the City Council, on a showing of hardship, and then only by written resolution of the City Council permitting such application and/or processing, and on such conditions as the City Council shall deem just. Nothing herein shall be construed to allow the issuance of Permits during the pendency of this Moratorium; nevertheless, the City Council recognizes that the exception sanctioned by Section 19.12.130 for the issuance of Permits during the pendency of a Moratorium supersedes the provisions of this Section.

SECTION III: Extension Justified. The City Council finds that the extension of the Moratorium hereby authorized is justified based on the results of the initial study and report and the additional work that remains to be done.

SECTION IV: Interim Processing Applications. In the event that the City Council grants permission to file an application for, or processing of, Permits during the pendency of this moratorium under the provisions of Section 2, above, it shall impose as a minimum condition of said permission, among such other conditions it deems appropriate, that if any Permit is eventually granted, the Permittee shall comply with, and the City shall have the right to impose on such Permit retroactively all criteria, including siting criteria, established in the City's Municipal Code as may, from time to time, be amended and specifically as may be amended as a result of the study hereinbelow ordered by the City Council.

SECTION V: Study Directed to Continue. The City Planning Commission and the City staff are hereby directed to continue their study of Adult-Oriented Recreation Businesses for the purpose of determining whether or not our Municipal Code, with regard to such uses, should be amended to redefine the locational requirements, determine whether the use should be permitted as

a right or "on conditions" and if so, in which zones of the City, and determine which if any conditions should be imposed as a matter of course or on a case-by-case basis upon such uses. The Commission and staff are also directed to continue their study in which zones of the City the use should be allowed or constrained or if such uses should be required to be placed in other and different zones from that which is currently allowed. The study shall also evaluate the impact of other cities' zoning ordinance on a regional or subregional basis for the purpose of determining what impact other cities' zoning ordinance may cause the relocation of such uses to be directed to areas within the City of Chula Vista. Specifically, the study should determine the impact of such uses on existing and future surrounding development, and the consequent environmental impacts that any changes in development patterns may have on that portion of the City in which uses may be allowed.

SECTION VI: Written Report Required. In the event that the staff may request an additional extension of the Moratorium beyond one (1) year from the date hereof, the staff shall prepare, on behalf of the City Council, a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, and to file same in the office of the City Clerk ten (10) days prior to the expiration hereof.

SECTION VII: Basis for Extension. The City Council hereby finds that there is a current and immediate threat to the public health, safety, and welfare, and that the approval of Permits in the interim would result in a threat to public health, safety and welfare. Therefore, this ordinance shall take full force and effect immediately upon initial passage and adoption thereof. The facts establishing emergency continue to be the same as those facts set forth in Ordinance 2558, to wit:

1. Recent case law has issued permitting cities to establish new and different locational requirements on Adult-Oriented Businesses and the City believes that this may have an impact on the relocation of such businesses within the subregion of south San Diego County and, therefore, may result in an overconcentration of such businesses within the City of Chula Vista if the City of Chula Vista fails to timely review their existing zoning restrictions in comparison to the restrictions of other jurisdictions within the South Bay, and to study the impact of such use development on surrounding land uses.

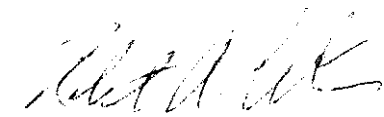
2. The City finds such uses to have certain significant, adverse social consequences despite the extent to which their right to exist may be protected by the First Amendment and such adverse social consequences require regulation as to time, place and manner in a way that is not adequately addressed under our current zoning scheme.
3. Such adverse social impacts of such uses may include, but are not necessarily limited to, the concentration of criminal activity; the tendency to promote an attitude of degradation, subjugation, discrimination or harassment of women in our society and in our immediate community; a limitation on commercial or other land use development; blighted urban development.
4. The City finds that there are some uses of property such as Adult-Oriented Recreation Businesses, which have operational characteristics which have historically produced or augmented the economic, physical and social decline of adjacent areas where they have been ineffectively regulated.
5. The implementation of the results of the study are necessary to supplement existing regulation of Adult-Oriented Recreation Businesses and that without such modification the health, safety and welfare of the City's residents would be compromised.
6. The City has, as part of the 1992-93 budget, budgeted and planned to engage in a land use and feasibility study of Main Street due to its location as the entry way to the recently adopted Southwest Redevelopment Area. The City has received an application for an Adult Oriented Recreation Business which, if issued, could make the results of this planning and zoning effort moot, and could have the effect of deteriorating a commercial entry way to the City. incorporated herein by reference.

SECTION VIII: The City Council continues to be mindful that certain Adult-Oriented Recreation Businesses have been recognized as involving constitutionally-protected expressions, and as such urges staff and the Commission, in conducting their study and formulating their recommendations for further Council consideration, to specifically identify legitimate governmental interests that may be adversely affected by such uses, and to do so without regard to the content of the expression, to formulate proposals that are not overbroad in their reach, and to permit reasonable avenues for such communication within the City.

SECTION IX:

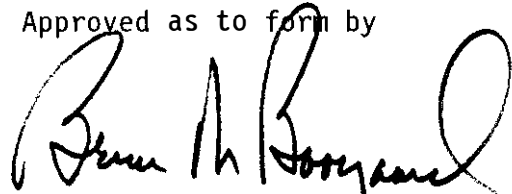
The City Clerk shall certify to the passage and adoption of this Ordinance by a vote of at least four-fifths of the City Council of the City of Chula Vista pursuant to Charter Section 311(d); shall cause the same to be entered in the book of original ordinances of said city; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published in the Chula Vista Star News, a newspaper of general circulation, published and circulated in said City and which is hereby designate for that purpose.

Presented by



Robert A. Leiter
Director of Planning

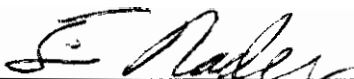
Approved as to form by



Bruce M. Boogaard
City Attorney

PASSED, APPROVED and ADOPTED by the City Council of the City of Chula Vista, California, this 10th day August, 1993, by the following vote:

AYES: Councilmembers: Fox, Moore, Rindone, Nader
NOES: Councilmembers: None
ABSENT: Councilmembers: Horton
ABSTAIN: Councilmembers: None



Tim Nader, Mayor

ATTEST:

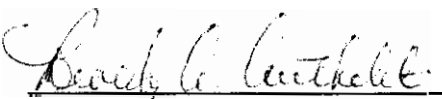


Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2565 had its urgency reading and adoption on August 10, 1993 at a regular meeting of said City Council.

Executed this 10th day of August, 1993.



Beverly A. Authelet, City Clerk