

ORDINANCE NO. 2334

AN URGENCY ORDINANCE OF THE CITY OF REDLANDS IMPOSING A MORATORIUM ON ADULT USES, ALLOWING APPLICATIONS FOR EXCEPTIONS TO ADULT USE REGULATIONS WITHIN THE CITY OF REDLANDS AND REPEALING ORDINANCE NOS. 2324 AND 2326 (Government Code Section 65858)

The City Council of the City of Redlands ("this City Council") finds, determines and declares that:

- A. Numerous provisions of the Redlands Municipal Code that regulate adult businesses including, but not limited to, portions of Title 18 require review, study and possible revision in order to respond to recent developments regarding the regulation of adult uses and case law interpreting such regulations. Because of their age, such provisions of the Redlands Municipal Code fail to fully take into account the secondary effects that are associated with adult uses and fail to address the needs of the City and its residents today and in the future.
- B. Government Code Section 65858(a) authorizes this City Council, to protect the public safety, health and welfare, to adopt as an urgency measure an interim zoning ordinance prohibiting any uses which may be in conflict with general plan, specific plan and zoning proposals which the City is considering or studying or intends to study within a reasonable time.
- C. On June 4, 1996, this City Council held a duly noticed public meeting and adopted Ordinance No. 2324 as an urgency ordinance under Government Code Section 65858.
- D. On July 16, 1996, after notice pursuant to Government Code Section 65090 and a duly-noticed public hearing on the matter, this City Council considered adoption of this Ordinance No. 2326 to extend the moratorium on adult uses imposed by Ordinance No. 2324.
- E. On August 16, 1996, this City Council again held a duly noticed public meeting to adopt this urgency Ordinance to regulate adult uses within the City of Redlands and consider repealing Ordinance Nos. 2326 and 2324. That public meeting was duly continued to August 19, 1996.
- F. The City Council has duly considered all written and verbal testimony presented at the aforementioned meetings and hearing.
- G. Without the imposition of interim development controls and an exception process, properties in the City could quickly receive entitlements to establish adult uses despite the fact that this City Council has determined that the Redlands Municipal Code is in need of updating and has directed that a study be done to recommend new standards and revised sections to the Redlands Municipal Code to address adult uses.

H. This City Council has directed that all studies be pursued as expeditiously as is practicable, and has authorized the retention of professional consultants, if necessary, to assist in the study of revisions to Redlands' general plan and the zoning provisions of the Redlands Municipal Code.

I. In order to prevent the frustration of said studies and the implementation thereof, the public interest, health, safety and welfare require the immediate enactment of this Ordinance. The absence of this Ordinance would create a serious threat to the orderly and effective implementation of any zoning amendments or general plan amendments which may be adopted by the City as a result of the studies, in that further development of adult uses within the City may be in conflict with or frustrate the contemplated updates and revisions to the Redlands Municipal Code or the City's general plan, specific plans and zoning regulations and may result in the secondary effects from adult uses in conflict with the contemplated updates and revisions to the Redlands Municipal Code and/or the City's general plan, specific plans and zoning regulations.

J. This City Council finds that this Ordinance is necessary in order to preserve the City from the potential secondary effects of adult businesses including crime, the protection of the City's retail trade, maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, the protection of the City's quality of life, and the increased threat of the spread of sexually transmitted diseases and the protection of First Amendment rights, and the peace, welfare and privacy of persons who patronize adult businesses. Experience in this City, as well as in cities and counties within and outside California including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix, Arizona have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The City recognizes and relies upon the experience of these other cities and counties in adopting adult business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* (1989) 211 Cal. App.3d 188); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* (1976) 475 U.S. 41) and the City of Seattle, Washington (as discussed in *Northend Cinema v. City of Seattle* (1978) 90 Wash. 2d 709, 585 P.2d 1153); and the County of Palm Beach, Florida (as discussed in *Movie & Video World v. Board of County Commissioners* (S.D. Fla. 1989) 723 F.Supp. 695) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the City of Los Angeles in 1977; and (2) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (3) the 1979 Adult Use Study by the Phoenix Planning Department; (4) the 1984 "Analysis of Adult Entertainment Business in Indianapolis" by the Department of Metropolitan Development; and (5) Austin, Texas' study on effects of adult businesses.

K. This City Council finds that this Ordinance is immediately required to preserve the City, including the City's commercial and residential areas, from the possible secondary effects of adult businesses during such period of time to complete the studies and proposed revised zoning and other provisions of the Redlands Municipal Code in order to protect the City and its residents from

the above-recognized potential secondary effects.

L. This City Council finds, determines and declares that there is a current and immediate threat to the public health, safety or welfare of the City and its citizens and that the approval of any applicable entitlement for use which is required in order to comply with the zoning provisions of the Redlands Municipal Code would result in that threat to public health, safety or welfare, thereby necessitating the immediate enactment of the Ordinance. The facts constituting such an urgency are set forth in Sections A-K, inclusive, of this Ordinance.

M. This City Council further finds that this is a matter of City-wide importance and is not directed towards nor targeting any particular parcel of property or proposed use.

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. Extension.

No application for discretionary approvals shall be accepted by the City with regard to any of the following types of uses:

- Adult Arcade
- Adult Bookstore
- Adult Business
- Adult Cabaret
- Adult Dance Studio
- Adult Hotel/Motel
- Adult Theater

Section 2. Request for Exception.

Any person who desires to establish within the City a use which is prohibited from being established by the operation of this Ordinance may request an exception from the City. Any use which is granted an exception may be established in the City irrespective of the provisions of the Redlands Municipal Code referenced in Section A, above, of this Ordinance, which provisions are currently under study. Except as specifically set forth above, the grant of a request for exception by the City shall not release the applicant from complying with any applicable federal, state or local law or regulation.

Section 3. Application for Request for Exception.

The City's Community Development Department shall prepare the necessary forms for person(s) who wish to request an exception to the provisions of this Ordinance. Until such forms are available, the Community Development Department shall utilize the City's "Planning Application" form. This City Council, by resolution, shall set the application fee for the request for

exception; provided, such fee shall not exceed the reasonable estimated costs of the City expended in processing such an application.

Section 4. Grant or Denial of Exception.

The Community Development Director ("Director") shall grant, conditionally grant or deny a request for an exception to the provisions of this Ordinance. Any conditions imposed upon the exception application shall be in keeping with the objective development standards of the underlying zoning district in which the property is located. The Director shall approve an application for exception where the information submitted by the applicant substantiates all of the following findings:

- a. That the proposed use is located within the City's "CM" Commercial Manufacturing Zone, the "M-2" General Industrial Zone, the "IP" Industrial District Zone or within the "EV/IC" land use designation of the City's East Valley Corridor Specific Plan, all as designated on the City's Official Zoning Map as defined in Title 18 of the Redlands Municipal Code.
- b. That the proposed site is not located within a one thousand (1,000) foot radius of a school or park. The distance between the adult use or proposed adult use and a park or school shall be measured from the nearest exterior wall of the facility housing the adult use or proposed adult use to the property line of the school or park site, measured along a straight line extended between the two points.
- c. That the proposed site is not located within a one thousand (1,000) foot radius of a religious institution. The distance between the adult use or proposed adult use and a religious institution shall be measured from the nearest exterior wall of the facility housing the adult use or proposed adult use along a straight line extended to the nearest exterior wall of the facility housing the religious institution.
- d. That the proposed site is not located within a one thousand (1,000) foot radius of any residential zone. The distance between the adult use or proposed adult use and a residential zone shall be measured between the nearest exterior wall of the proposed use, and the nearest lot line included within the residential zone, along a straight line extended between the two points.
- e. That the proposed use is not located within a five hundred (500) foot radius of any existing adult use. The distance between the proposed adult use and the existing adult use shall be measured between the nearest exterior wall of the facility housing the proposed adult use along a straight line extended to the nearest exterior wall of the facility housing the existing adult use.
- f. That the proposed use satisfies and is consistent with all of the applicable development standards set forth in the Redlands Municipal Code.

The Director shall deny the request for exception where the information submitted by the

applicant fails to substantiate the above-described findings. The Director shall render a written decision on the request for exception within fifteen (15) days of receiving a completed exception application. The Director shall determine whether an application is complete within five (5) working days of its submittal to the Community Development Department.

Section 5. Notice and Appeal of Director's Decision.

Notice of the Director's decision shall be mailed to all property owners shown on the last equalized assessment roll of the County located within three hundred (300) feet of the proposed use at the time the Director renders his or her decision. Any interested person may appeal the decision of the Director to the City Council in writing within ten (10) days after the written decision of the Director. Consideration of an appeal of the Director's decision shall be at a public hearing which shall occur within thirty (30) days of the filing or initiation of the appeal. Any City Council action on an appeal of the Director's decision shall be by a majority vote of the quorum of the City Council and shall be final and conclusive. This City Council shall render a decision on the appeal within thirty (30) days of the hearing.

Section 6. Definitions.

In addition to the definitions contained in the Redlands Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Redlands Municipal Code, these definitions shall prevail:

a. "Adult Arcade" shall mean any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas."

b. "Adult Bookstore" shall mean any business establishment or concern having as a regular and substantial portion of its stock in trade "material" (as defined below) which is distinguished or characterized by its emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

c. "Adult Business" shall mean:

(1) Any business establishment or concern which as a regular and substantial course of conduct operates as an adult bookstore, adult theater, adult arcade, adult cabaret, adult motel or hotel; or

(2) Any business establishment or concern which as a regular and substantial

course of conduct offers, sells or distributes adult oriented merchandise or sexually oriented merchandise, or which offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical parts," but not including those uses or activities which are preempted by State law.

d. "Adult Cabaret" shall mean a nightclub, bar or other business establishment or concern (whether or not serving alcoholic beverages) which features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, and where such performances are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

e. "Adult Dance Studio" shall mean any business establishment or concern which provides for members of the public a partner for dance where the partner, or the dance, is distinguished or characterized by the emphasis on matter depicting, or describing or relating to "specified sexual activities" or "specified anatomical areas."

f. "Adult Hotel/Motel" shall mean a hotel or motel, as defined in the Redlands Municipal Code, which is used for presenting on a regular and substantial basis material which is distinguished or characterized by the emphasis on matter depicting or describing or relating to "specified sexual activities" or "specified anatomical areas" through closed circuit or cable television or through video tape recorder where video tapes are provided by the hotel/motel.

g. "Adult Oriented Merchandise" shall mean sexually oriented implements, paraphernalia, or novelty items, such, as but not limited to: dildos, auto sucks, sexually-oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

h. "Adult Theater" shall mean a theater or other commercial establishment with or without a stage or proscenium which is used for presenting, on a regular and substantial basis, "material" which is distinguished or characterized by an emphasis on matter depicting, or describing, or relating to "specified sexual activities" or "specified anatomical areas."

i. "Arcade Booth" shall mean any enclosed or partially enclosed portion of an establishment in which an adult arcade is located, or where a live performance is presented, on a regular or substantial basis, where the material presented is distinguished or characterized by an emphasis on matter depicting, or describing, or relating to "specified sexual activities" or "specified anatomical areas."

j. "Material" relative to adult businesses, shall mean and include, but not be limited to,

accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

k. "Park site" shall mean any property within the City which is designated "Park" on the City's General Plan Land Use Map or Zoning Map.

l. "Religious Institution" shall mean a facility used primarily for religious assembly or worship and related religious activities.

m. "Residential Zone shall mean any property within the City which is designated Residential on the City's Zoning Map, including "Residential Estate," "low density residential," medium density residential" and "high density residential."

n. "School" shall mean any institution of learning for minors 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 and has an approved use permit, if required, under the applicable jurisdiction. This definition includes a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, a special institution of learning under the jurisdiction of the state Department of Education, or an institution of higher education, including a community or junior college, college or university. The definition of school does not include a vocational institution.

o. "Specified Anatomical Areas" shall mean:

(1) Less than completely and opaquely covered, and/or simulated to be reasonably anatomically correct, even if completely and opaquely covered:

- (a) human genitals, pubic region;
 - (b) buttock, or
 - (c) female breast below a point immediately above the top of the areola;
- or

(2) Human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

p. "Specified Sexual Activities" shall mean:

- (1) Human genitals in a state of sexual simulation or arousal; or
- (2) Acts of human masturbation, sexual stimulation or arousal; and/or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or

- (4) Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; and/or
- (5) Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
- (6) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast."

Section 7. Severability.

If any section, subsection, sentence, clause phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. This City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 8. Publication.

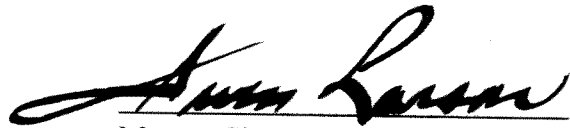
The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published in the manner prescribed by law.

Section 9. Urgency Measure.

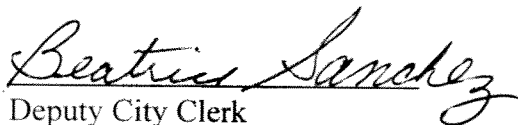
This Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately. The reasons for this urgency are set forth in Paragraphs A-M, inclusive, and Sections 1-8, inclusive, of this Ordinance.

Section 10. Repeal.

Ordinance Nos. 2324 and 2326 of the City of Redlands are hereby repealed.


Mayor, City of Redlands

ATTEST:


Deputy City Clerk

I, Beatrice Sanchez, Deputy City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a special meeting thereof held on the 19th day of August, 1996, by the following vote:

AYES:	Councilmembers Gilbreath, Cunningham, Banda; Mayor Larson
NOES:	None
ABSENT:	Councilmember Gil


Beatrice Sanchez, Deputy City Clerk