

Ordinance Fact Sheet

TO: CITY COUNCIL **DATE:** DECEMBER 4, 2006

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE AMENDING THE ZONING CODE REGARDING THE REGULATION OF ADULT BUSINESSES

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE PASADENA MUNICIPAL CODE, TITLE 17 (THE ZONING CODE), REGARDING THE REGULATION OF SEXUALLY ORIENTED BUSINESSES FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH AND SAFETY

PURPOSE OF ORDINANCE

In response to Council direction given on September 11, 2006, this ordinance amends the Zoning Code to add a distance requirement between sexually oriented businesses and residential zones, replace the 1,000 feet separation requirement between adult businesses with regulations limiting the concentration of adult businesses, eliminate the Expressive Use Permit and permit sexually oriented businesses as of right, and establishes an amortization period applicable to all lawful, nonconforming sexually oriented businesses.

REASON WHY LEGISLATION IS NEEDED

This legislation is needed to protect City residents and residential neighborhoods from the adverse secondary effects that arise from the operation of sexually oriented businesses, to bring the City's regulations of sexually oriented businesses in line with the laws regulating sexually oriented businesses which have changed since the City last modified its regulations, as well as to provide for a constitutionally sufficient number of sites at which a sexually oriented business could locate within the City.

MEETING OF 12/01/06

AGENDA ITEM NO. 9.A.2.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Planning and Development Department will implement the proposed ordinance through modifications to the Zoning Code.

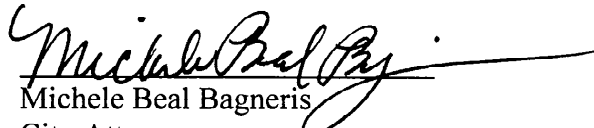
FISCAL IMPACT

There will not be an immediate fiscal impact as a result of this amendment to the Zoning Code.


ENVIRONMENTAL DETERMINATION

A Negative Declaration was prepared for the proposed changes, pursuant to the California Environmental Quality Act (CEQA).

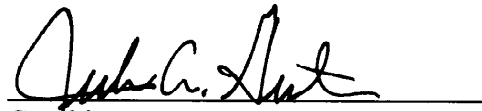
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Theresa E. Fuentes
Deputy City Attorney

Concurred by:


Cynthia J. Kurtz
City Manager

Introduced by: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE PASADENA MUNICIPAL CODE, TITLE 17 (THE ZONING CODE), REGARDING THE REGULATION OF SEXUALLY ORIENTED BUSINESSES FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH AND SAFETY

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the City of Pasadena regulates the location and operation of adult businesses through its Zoning Code (Title 17, Section 17.50.030); and

WHEREAS, the last comprehensive update to Section 17.50.030 was approximately nine years ago, when the City adopted Ordinance No. 6723; and

WHEREAS, the City intends hereafter to refer to “adult businesses” as “sexually oriented businesses” to more precisely identify the category of adults-only businesses subject to the following regulations and to be consistent with the nomenclature in Chapter 5.45 of the Municipal Code; and

WHEREAS, in that intervening time, the law governing the regulation of sexually oriented businesses has continued to develop, and the City has recently undertaken a review of its sexually oriented business definitions and regulations in light of those developments in the law; and

WHEREAS, the City has found it necessary to revise and update the Zoning Code in order to reduce the adverse secondary effects associated with sexually oriented businesses; and

WHEREAS, the City recognizes its constitutional duty to interpret, construe, and amend its laws to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any Ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and California Constitutions, California Code, and the California Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the California Constitution, but to enact legislation to further the content-neutral governmental interests of the City, to wit, the controlling of secondary effects of sexually oriented businesses; and

WHEREAS, at its regularly scheduled meeting on November 8, 2006, the Planning Commission of the City of Pasadena reviewed the Negative Declaration, the Zoning Code amendments set forth below, and related amendments to Title 5, and recommended adoption of the Negative Declaration and approval of all of the code amendments to Council; and

WHEREAS, pursuant to the California Environmental Quality Act, the Council has reviewed and considered the information contained in the Initial Study and Negative Declaration prepared for this Ordinance, and determines that the Negative Declaration adequately analyzes the environmental effects of this Ordinance. The City Council finds that there is no evidence from which it can be fairly argued that this Ordinance will have a significant adverse effect on the environment. The Council hereby certifies and approves the Negative Declaration.

NOW THEREFORE, the City Council of the City of Pasadena adopts the following in support of this ordinance:

Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases including, but not limited to, *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *Gammoh v. City of La Habra*, 395 F.3d 1115 (9th Cir. 2005); *Dream Palace v. Maricopa County*, 384 F.3d 990 (9th Cir. 2004); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Talk of the Town v. City of Las Vegas*, 343 F.3d 1063 (9th Cir. 2003); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Davis v. Gates*, 1992 U.S. App. LEXIS 22417 (9th Cir. 1992); *Deja Vu-Everett-Federal Way, Inc. v. City of Federal Way*, 46 Fed. Appx. 409 (9th Cir. Aug. 20, 2002); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Ellwest Stereo Theatres, Inc. v. Wenner*, 681 F.2d 1243 (9th Cir. 1982); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Jakes, Ltd., Inc. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *Sensations, Inc. v. City of Grand Rapids*, Nos. 1:06-CV-300; 4:06-CV-60 (W.D. Mich., Oct. 23, 2006); *Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville & Davidson County*, 466 F.3d 391 (6th Cir. 2006); *3570 East Foothill Boulevard, Inc. v. City of Pasadena*, 912 F.Supp. 1257 (C.D. Cal. 1995); *3570 East Foothill Boulevard, Inc. v. City of Pasadena*, 912 F.Supp. 1268 (C.D. Cal. 1996); *3570 East Foothill Boulevard, Inc. v. City of Pasadena*, 980 F.Supp. 329 (C.D. Cal. 1997); *3570 East Foothill Boulevard, Inc. v. City of Pasadena*, 2006 WL 3020296 (Cal.App. 2

Dist., Oct. 25, 2006) ; *Fantasyland Video, Inc. v. County of San Diego*, 373 F. Supp. 2d 1094 (S.D. Cal. 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council finds:

a. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

b. Sexually oriented businesses should be separated from sensitive land uses, including residences, and should be regulated to prevent an excessive concentration of sexually oriented businesses in any one area, in order to minimize the impact of their secondary effects upon such sensitive uses and the use enjoyment of surrounding properties.

c. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may

locate in the City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

d. Based on the foregoing, this Ordinance is required for the immediate preservation of the public peace, health, and safety, and shall take effect upon publication as provided in Section 510 of the Pasadena City Charter.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“SUMMARY

Ordinance No. _____ will amend Title 17 of the City of Pasadena’s Zoning Code to regulate only the location of sexually oriented businesses, making these uses permitted as of right, subject to objective district and setback requirements, and eliminating the Expressive Use Permit requirement. Section 17.50.030 will be modified to require a 250-foot separation between adult uses and residential districts. Measurements between sexually oriented businesses and residential districts, as well as between sexually oriented businesses and other sensitive uses, will be between the nearest property lines of the two uses. Section 17.50.030 will also be modified to allow no more than two adult uses within a 250-foot radius, and to establish an amortization procedure and time period after which lawful, nonconforming sexually oriented businesses would have to conform to the applicable regulations by either ceasing operation of the sexually oriented business or by moving the sexually oriented business to a location that allows such enterprises. Other minor clarifying and grammatical changes will also be made.

Ordinance No. _____ is necessary for the immediate preservation of the public peace, health, and safety, and shall take effect upon publication pursuant to Pasadena City Charter Section 510.”

SECTION 2. Pasadena Municipal Code, Title 17, Article 8, Section 17.80.020 (Definitions) is amended to delete the term “Adult Businesses (land use)” in its entirety.

SECTION 3. Pasadena Municipal Code, Title 17, Article 8, Section 17.80.020 (Definitions) is amended to add the following definitions in their proper alphabetical sequence:
“**Sexually Oriented Business (land use).** The following terms and phrases are defined for the purpose of Section 17.50.295 (Sexually Oriented Businesses).

1. **Adult Bookstore or Adult Video Store.** A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment:

- a. Has a substantial portion of its displayed merchandise which consists of said items, or
- b. Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- c. Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- d. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
- e. Maintains a substantial section of its net floor area for the sale or rental or said items; or
- f. Regularly features said items, prohibits access by minors, by reason of age, to its premises, and regularly advertises, on signage visible from a public right-of-way, as providing

items that the advertising describes using the term “adult,” “xxx,” “triple-x,” “x-rated,” “erotic,” “sexual,” or a term or terms with similar import; or

g. Maintains an “adult arcade,” which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting “specified sexual activities” or specified “anatomical areas.”

2. **Adult Cabaret.** A nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

3. **Adult Motion Picture Theater.** A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.

4. **Characterized by.** The essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

5. **Establish or Establishment.** Any of the following:

a. The opening or commencement of any sexually oriented business as a new business;

b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

c. The addition of any sexually oriented business to any other existing sexually oriented business.

6. **Nudity or a State of Nudity.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

7. **Operate or Cause to Operate.** To cause to function or to put or keep in a state of doing business.

8. **Operator.** Any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of that person is an owner, part owner, or permittee of the business.

9. **Person.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

10. **Premises.** The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the permittee, as described in the application for a sexually oriented business permit.

11. **Regularly.** Recurring, attending, or functioning at fixed or uniform intervals.

12. **Semi-Nude or State of Semi-Nudity.** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

13. **Semi-Nude Model Studio.** A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

a. By a college, junior college, or university supported entirely or partly by taxation;

b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

c. In a structure:

i. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

ii. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

14. **Sexual Device.** Any three dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

15. **Sexual Device Shop.** A commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

16. **Sexually Oriented Business.** An “adult bookstore or adult video store,” an “adult cabaret,” an “adult motion picture theater,” a “semi-nude model studio,” or a “sexual device shop.”

17. **Specified Anatomical Area.** Any of the following:

- a. Less than completely and opaquely covered: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

18. **Specified Criminal Activity.** Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- a. Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- b. Prostitution, keeping a place of prostitution, pimping, or pandering;
- c. Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;
- d. Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- e. Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- f. Any offense in another jurisdiction that, had the predicate acts been committed in California, would have constituted any of the foregoing offenses.

19. **Specified Sexual Activity.** Any of the following:

- a. Intercourse, oral copulation, masturbation or sodomy; or

b. Excretory functions as a part of or in connection with intercourse, oral copulation, masturbation, or sodomy.

20. **Substantial.** At least thirty-five percent of the specified items.

21. **Transfer of Ownership or Control.** Any of the following:

a. The sale, lease, or sublease of the sexually oriented business;

b. The transfer of securities which constitute an influential interest in the sexually oriented business, whether by sale, exchange, or similar means; or

c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

22. **Viewing Room.** The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.”

SECTION 4. Pasadena Municipal Code, Title 17, Article 8, Section 17.80.020 (Definitions) is amended to modify the definition of “Hearing Officer” to read as follows:

“**Hearing Officer.** The person appointed to perform the duties prescribed by this Zoning Code related to conducting public hearings and making decisions on applications including Conditional Use Permits, Expressive Use Permits, Hillside Development Permits, Sign Exceptions, Sexually Oriented Business Application for Hardship Extension, and Variances.”

SECTION 5. Pasadena Municipal Code, Title 17, Article 5, Section 17.50.030 is deleted in its entirety.

SECTION 6. Pasadena Municipal Code, Title 17, Article 5, Section 17.50.295 is hereby created as follows:

“17.50.295 – Sexually Oriented Businesses

A. Definitions. The technical terms and phrases used in this Section are defined in Article 8 (Glossary of Specialized Terms and Land Use Types) under “Sexually oriented business (land use).”

B. Purpose. It is the purpose of this Section to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material. Findings and rationale supporting this purpose are set forth in the uncodified provisions of the ordinance adopted to implement this Section.

C. Location requirements. Sexually oriented businesses shall be permitted in only the CG zoning district and shall be subject to the following conditions:

1. No sexually oriented business is allowed in the Lincoln Corridor (CG-1).
2. No sexually oriented business is allowed within 500 feet of any child day-care center (excluding large and small family day-care homes), park and recreation facility, public or private school, or religious facility (excluding temporary uses), that existed before the establishment of the sexually oriented business.
3. No sexually oriented business is allowed within 250 feet of a RS or RM district. Measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a lot line of the sexually oriented business

premises to the closest point on a lot line of any child day-care center, park and recreation facility, public or private school, religious facility, or parcel in a RS or RM district.

4. No more than two sexually oriented businesses are allowed within a 250 foot radius, drawn around the proposed use. Measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on the lot line of the proposed sexually oriented business premises to the closest point on the lot line of any other sexually oriented business.

5. No location in the City shall be disqualified by virtue of its proximity to a land use located outside the jurisdictional boundaries of the City.

D. **Nonconforming sexually oriented businesses.** Notwithstanding anything to the contrary in the Pasadena Code, any sexually oriented business located within the City of Pasadena on the date the foregoing restrictions become effective, which is made a nonconforming use by this provision, shall be terminated within 12 months of the date this provision becomes effective. A nonconforming sexually oriented business may obtain an extension, based upon a showing of financial hardship, of its amortization period upon the approval of a written application filed with the Department no later than 60 days prior to the end of such 12 month amortization period.

1. **Procedure for seeking hardship extension.** An application for a hardship extension shall be filed in writing with the Department, and shall include payment of an application fee, evidence of purchase and/or lease and improvement costs, income earned and lost, depreciation, and costs of relocation. The Department shall determine whether the application is complete within ten days. Within thirty days after determining that the application is complete, the Department shall schedule a hearing on the application before the Hearing Officer, which hearing shall be conducted within 30 days after the Department's receipt of the complete application.

2. **Standards for obtaining hardship extension.** The Hearing Officer shall issue a written decision within ten days after the hearing on the application for a hardship extension, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction.. A reasonable hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this Ordinance, in its current location unless the hardship extension is granted. An extension under this Section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the Hearing Officer makes all of the following findings or such other findings as are required by law:

a. The applicant has made, prior to the effective date of this ordinance, a substantial investment, including but not limited to lease obligations incurred in an arms-length transaction, in the property or structure on or in which the nonconforming use is conducted;

b. The applicant will be unable to recoup said investment as of the date established for termination of the use;

c. The applicant has made good faith efforts to recoup its investment, including an attempt to assign the lease, sell or use the property in a manner, and for a use, permitted in the location and has been unsuccessful in his efforts.

SECTION 7. Pasadena Municipal Code, Title 17, Article 2, Table 2-5 is amended as shown on Exhibit 1, attached hereto and incorporated herein by this reference.

SECTION 8. Pasadena Municipal Code, Title 17, Article 6, Table 6-1 is amended as shown on Exhibit 2, attached hereto and incorporated by this reference.

SECTION 9. Pasadena Municipal Code, Title 17, Article 5, Chapter 17.50, Section 17.50.130, subsection A is amended as follows:

“A. Applicability. The following regulations apply to live entertainment when associated with a commercial entertainment, ~~or commercial recreational – indoor-use~~, or a bar or tavern ~~or adult-oriented business use.~~”

SECTION 10. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 11. This ordinance shall take effect upon publication pursuant to Pasadena City Charter Section 510.

Signed and approved this _____ day of _____, 2006.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____, 2006, by the following vote:

AYES:

NOES:

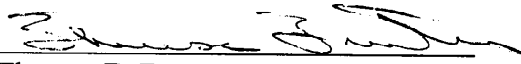
ABSENT:

ABSTAIN:

Date Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:



Theresa E. Fuentes
Deputy City Attorney
TEF Ordinances/Resolutions/Adult use title 17 ordinance

**TABLE 2-5 - ALLOWED USES AND PERMIT REQUIREMENTS
FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

LAND USE (1)	PERMIT REQUIREMENT BY ZONE				Specific Use Standards
	CO	CL (2)	CG (2)	IG	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES (8, 10)					
Adult businesses	—	—	E (12)	—	17.50.030
Clubs, lodges, private meeting halls	C	C (6)	P	P	
Colleges - Nontraditional campus setting	P (9)	P (9)	P (9)	P (9)	
Colleges - Traditional campus setting	C (3)	C (3)	C (3)	—	
Commercial entertainment	—	E (9)	E (9)	E (9)	17.50.130
Commercial recreation - Indoor	—	—	C (9)	C (9)	17.50.130
Commercial recreation - Outdoor	—	—	C (9)	C (9)	17.50.130
Cultural institutions	P (3)	P (3)	P (3)	P (3)	
Electronic game centers	—	—	C (9) (12)	C (9)	17.50.100
Internet access studios	—	—	C (9)	C (9)	17.50.100
Park and recreation facilities	C	C	C	C	
Religious facilities	C (3)	C (3)	MC (3, 7)	—	17.50.230
With columbarium	P (3)	P (3)	P (3)	—	17.50.230
With temporary homeless shelter	C	P	P	—	17.50.230
Schools - Specialized education and training	—	P (9)	P (9)	P (9)	
Schools - Public and private	—	C (3)	C (3)	—	17.50.270
Street fairs	P	P	P	P	
Tents	TUP	TUP	TUP	TUP	17.50.320

Notes:

- (1) See Section 17.80.020 for definitions of the listed land uses.
- (2) Includes the CL and CG districts with all suffixes (e.g., CL-2, CG-1, CG-2).
- (3) Uses on sites greater than two acres that were established after June 30, 1985, shall require a zone change to PS (Public, Semi-Public).
- (4) Allowed subject to the development standards of the RS-6 district, Section 17.22.040.
- (5) The maximum interior or exterior area in which support services are offered or located shall not exceed 250 sq. ft.
- (6) A club, lodge, or private meeting hall established prior to September 9, 1996, shall be a permitted (P) use.
- (7) A minor conditional use permit is required to establish a new use. An existing use is a permitted (P) use.
- (8) Use subject to limitations on hours of operation. See Section 17.40.070 (Hours of Operation).
- (9) Conditional Use Permit approval required for a nonresidential project, or the nonresidential portion of a mixed-use project that exceeds 25,000 sq. ft. of gross floor area; except for a project with an approved master development plan, tenant improvements, or a project on the City's approved capital improvement budget.
- (10) No more than five large trucks (except trucks associated with vehicle services - sales and leasing) shall be stored on a lot. This shall apply to new uses or uses which expand by more than 30 percent of gross floor area.
- (11) Use is permitted only as an accessory use to a restaurant (including fast food and formula fast food) or food sales.
- (12) Use not permitted in the Lincoln Corridor, CG-1 district.
- (13) In the CG-1 district, this use is permitted only when accessory to another use and located within a building.
- (14) Use is conditionally permitted in the Lincoln Corridor, CG-1 district.

**TABLE 2-5 - ALLOWED USES AND PERMIT REQUIREMENTS
FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

LAND USE (1)	PERMIT REQUIREMENT BY ZONE				Specific Use Standards
	CO	CL (2)	CG (2)	IG	
0					
SERVICES - CONTINUED (8, 10)					
Child day care, small care homes, 1 to 8 persons	P	P	P	—	
Detention facilities	—	—	—	C (3)	
Drive-through business - Nonrestaurants	—	C	C	C	17.50.090
Drive-through business - Restaurants	—	C	C	C	17.50.090
Emergency shelters	—	—	MC	MC	
Filming, long-term	C	C	C	C	
Filming, short-term	P	P	P	P	
Laboratories	C (9)	P (9)	P (9)	P (9)	
Life/ care facilities	—	C	C	—	17.50.120
Lodging - Bed and breakfast inns	C (9)	C (9)	C (9)	—	17.50.140
Lodging - Hotels, motels	—	—	C (9)	C (9)	17.50.150
Maintenance and repair services	—	P (9)	P (9)	P (9)	
Medical services - Extended care	C (3)	C (3)	—	—	
Medical services - Hospitals	—	—	C (3) (12)	—	
Mortuaries, funeral homes	—	P (9)	P (9)	P (9)	
Personal improvement services	—	P (9)	P (9)	P (9)	
Personal services	—	P (9)	P (9)	P (9)	
Personal services, restricted	—	—	C (9)	C (9)	17.50.200
Printing and publishing	—	C (9)	P (9)	P (9)	
Printing and publishing, limited	C	P	P	P	
Public maintenance & service facilities	—	—	C (3)	C (3)	
Public safety facilities	C (3)	C (3)	C (3)	C (3)	
<u>Sexually oriented businesses</u>	—	—	<u>P (12)</u>	—	<u>17.50.030</u>
Vehicle services - Vehicle equipment repair	—	—	C (9)	C (9)	17.50.360
Vehicle services - Washing and detailing	—	—	C (9)	C (9)	17.50.290
Vehicle services - Washing and detailing, small-scale	—	P	P	P	17.50.290

Notes:

- (1) See Section 17.80.020 for definitions of the listed land uses.
- (2) Includes the CL and CG districts with all suffixes (e.g., CL-2, CG-1, CG-2).
- (3) Uses on sites greater than two acres that were established after June 30, 1985, shall require a zone change to PS (Public, Semi-Public).
- (4) Allowed subject to the development standards of the RS-6 district, Section 17.22.040.
- (5) The maximum interior or exterior area in which support services are offered or located shall not exceed 250 sq. ft.
- (6) A club, lodge, or private meeting hall established prior to September 9, 1996, shall be a permitted (P) use.
- (7) A minor conditional use permit is required to establish a new use. An existing use is a permitted (P) use.
- (8) Use subject to limitations on hours of operation. See Section 17.40.070 (Hours of Operation).
- (9) Conditional Use Permit approval required for a nonresidential project, or the nonresidential portion of a mixed-use project that exceeds 25,000 sq. ft. of gross floor area; except for a project with an approved master development plan, tenant improvements, or a project on the City's approved capital improvement budget.
- (10) No more than five large trucks (except trucks associated with vehicle services - sales and leasing) shall be stored on a lot. This shall apply to new uses or uses which expand by more than 30 percent of gross floor area.
- (11) Use is permitted only as an accessory use to a restaurant (including fast food and formula fast food) or food sales.
- (12) Use not permitted in the Lincoln Corridor, CG-1 district.
- (13) In the CG-1 district, this use is permitted only when accessory to another use and located within a building.
- (14) Use is conditionally permitted in the Lincoln Corridor, CG-1 district.

Underlined language added, scored language deleted.

TABLE 6-1 - REVIEW AUTHORITY

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/ Hearing Officer	DC (2)	BZA/Planning Commission (2)	City Council
Administrative and Amendments					
General Plan amendments	17.74			Recommend	Decision
Interpretations	17.02	Decision (3)		(BZA) Appeal	CFR
Master Plans	17.61.050			Recommend	Decision
Planned Developments	17.61.110			Recommend	Decision
Specific Plans	17.68			Recommend	Decision
Zoning Code amendments	17.74			Recommend	Decision
Zoning Map amendments	17.74			Recommend	Decision
Land Use Permits and other Development Approvals					
Adjustment Permits	17.61.070			Recommend	Decision
Certificate of Appropriateness	17.62.090	Decision (4)			Appeal/ CFR
Code Compliance Certificates	17.61.020	Issued by Director			
Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Creative Sign Permits	17.48.070	Decision	Appeal		Appeal/ CFR
Design Review – City Sponsored Projects	17.61.030	Recommend	Recommend		Decision
Design Review – Non-City Sponsored Projects (See Tables 6-2 & 6-3)	17.61.030	Decision	Decision/ Appeal		Appeal/ CFR
Development Agreements	17.66			Recommend	Decision
Expressive Use Permits	17.61.060	(HO) Decision (3)			Appeal/ CFR

Underlined language added.

Exhibit - 2

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/Hearing Officer	DC (2)	BZA/Planning Commission (2)	City Council

Land Use Permits and other Development Approvals {Continued}

Long-term Film Permits	17.61.090	(HO) Decision		(BZA) Appeal	Appeal/CFR
Hillside Development Permit	17.29.010	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Lot Line Adjustments	Title 16	Advisory Agency (HO) Decisions		(BZA) Appeal	Appeal
Master Sign Plans	17.48.060	Decision	Appeal		Appeal/CFR
Minor Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Minor Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Modifications for Persons with Disabilities	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
<u>Sexually Oriented Business Hardship Extension</u>	<u>17.50.030</u>	<u>(HO) Decision</u>			
Sign Exceptions	17.48.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Tentative Tract and Parcel Maps (Including Vesting Maps)	Title 16	Advisory Agency (HO) Decision		(BZA) Appeal	Appeal/CFR
Temporary Use Permits	17.61.040	(ZA) Decision (3)		(BZA) Appeal	CFR
Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)

Notes:

- (1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 17.72 (Appeals); and "CFR" means Call for Review, in compliance with Chapter 17.72 (Appeals).
- (2) "DC" means the Design Commission and "BZA" means Board of Zoning Appeals.
- (3) The Hearing Officer may defer action on permit applications and refer the items to the Board of Zoning Appeals (BZA) for the final decision.
- (4) The Director's decision to issue a Certificate of Appropriateness may first be appealed to the Historic Preservation Commission (HPC) and then to the Council.
- (5) The City's Film Liaison is the applicable review authority for short-term Film Permits and Film Conditional Use Permits, in compliance with Section 17.61.090.
- (6) May be only appealed to the City Council if the decision includes certification of an EIR or approval of a Negative Declaration or Mitigated Negative Declaration.

Underlined language added.