

TO: JAMES L. APP, CITY MANAGER
FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR *RAL*
SUBJECT: CODE AMENDMENT 98004 (DISPLAY OF ADULT MATERIAL IN NEWSRACKS ON PRIVATE PROPERTY - CITY INITIATED)
DATE: AUGUST 3, 1999

Needs: To consider a City-initiated code amendment to expand the scope of newly-adopted regulations for the display for adult material in newsracks to include private property.

- Facts:
1. At its meeting of July 6, 1999, the City Council adopted Ordinance 772 N.S., which established Chapter 11.35 of the Municipal Code to regulate the placement and maintenance of newsracks in the public right-of-way and on public property. Chapter 11.35 included regulations for display of adult ("harmful") material.
 2. The newsrack regulations in Chapter 11.35 do not apply on private property. Presently, there are several newsracks in the City on private property. Most commonly they are located in front of grocery stores, mini-markets and similar retail businesses.
 3. Regulations to control the display of adult material in newsracks placed on private property are needed in addition to regulation of newsracks on public property.
 4. The City Attorney has advised that regulations governing the display of adult material in newsracks should be placed in both the Streets and Sidewalks Code and the Zoning Code within Chapter 21.31 of the Zoning Code (Adult Business Regulations).
 5. The proposed Code Amendment will have no potential for significant effect on the environment and is, therefore, not subject to the California Environmental Quality Act (CEQA). (Section 15061(b)(3) of the Guidelines to Implement CEQA)

Analysis and Conclusion:

The attached ordinance would establish a section in the Adult Business Chapter of the Zoning Code that would cite the display of adult material newsrack regulations in the newly-adopted Chapter 11.35 as applying on private property. This section is essentially the same text considered by the Planning Commission on June 8, 1999 and by the City Council on June 15, 1999.

Policy

Reference: Ordinance 772 N.S., Zoning Code Chapter 21.31, California Penal Code Section 313, Section 15061(b)(3) of the Guidelines to Implement CEQA

Fiscal
Impact: None.

Options: After consideration of all public testimony, that the City Council consider the following options:

- a. That the City Council introduce the attached Ordinance Amending Chapter 21.31 of the Municipal Code, and set August 17, 1999 for adoption.
- b. Amend, modify or reject the foregoing option.

Attachment: Draft Ordinance Amending Chapter 21.31 of the Municipal Code to Establish Regulations for Newsracks on Private Property

ORDINANCE NO. ____ N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING CHAPTER 21.31 OF THE MUNICIPAL CODE
TO ESTABLISH REGULATIONS FOR NEWSRACKS ON PRIVATE PROPERTY

WHEREAS, via Ordinance 772 N.S., the City established Chapter 11.35 of the Municipal Code to contain regulations for newsracks placed within the public right-of-way and on public property; and said newsrack regulations include provisions for display of harmful material;

WHEREAS, newsracks may also be placed on private property, where it remains necessary to protect minors from viewing harmful matter that may be offered for sale or distribution within newsracks located in public places, except in places where minors may be excluded; and

WHEREAS, at its meeting of June 8, 1999, the Planning Commission conducted a public hearing on the proposed ordinance and recommended that the City Council approve such ordinance; and

WHEREAS, at its meetings of June 15 and August 3, 1999, the City Council conducted a public hearing on the subject of the proposed ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 21.31 of the Municipal Code is hereby amended to add Section 12.31.090 to read as follows:

12.31.090 Limitations on Display of Harmful Matter in Newsracks.

The limitations on display of material which is harmful to minors contained within Chapter 11.35 shall apply to private property as well as to the public right-of-way.

SECTION 3. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 5. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 6. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on August 3, 1999, and passed and adopted by the City Council of the City of El Paso de Robles on the 17th day of August, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Duane J. Picanco, Mayor

ATTEST:

Sharilyn M. Ryan, City Clerk