

TOWN OF PERALTA

ORDINANCE 2011-17

AN ORDINANCE ESTABLISHING A CRIMINAL CODE FOR THE TOWN OF PERALTA, NEW MEXICO

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF
PERALTA, NEW MEXICO, AS FOLLOWS:

SECTION 7-1

OFFENSES RELATING TO PUBLIC ORDER AND SAFETY

- 7-1-1 ASSAULT
 - 7-1-2 BATTERY
 - 7-1-3 TRESPASS
 - 7-1-4 PROWLING
 - 7-1-5 DISTURBING THE PEACE
 - 7-1-6 UNREASONABLE NOISE
 - 7-1-7 DISORDERLY CONDUCT
 - 7-1-8 INTOXICATION
 - 7-1-9 DRINKING IN PUBLIC
 - 7-1-10 UNLAWFUL ASSEMBLY
 - 7-1-11 OBSTRUCTING MOVEMENT
 - 7-1-12 REMOVAL OF BARRICADES
 - 7-1-13 DEADLY WEAPONS
 - 7-1-14 FAILURE TO REPORT TREATMENT OF WOUNDS
 - 7-1-15 PROPELLING OF MISSILES
 - 7-1-16 POSSESSION OF BURGLARY TOOLS
 - 7-1-17 FALSE ALARMS
 - 7-1-18 FALSE REPORTS
 - 7-1-19 INTERFERENCE WITH OFFICERS
 - 7-1-20 IMPERSONATING AN OFFICER
 - 7-1-21 UNAUTHORIZED USES OF CERTAIN WORDS AND INSIGNIA
 - 7-1-22 POSSESSION OF MARIJUANA
 - 7-1-23 DRUG PARAPHERNALIA PROHIBITED
 - 7-1-24 VIOLATION
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- 7-1-1 ASSAULT. It is unlawful for any person by an unlawful act, threat or menacing conduct to cause another person to believe he is in danger of receiving an immediate battery, nor shall any person, by the use of

insulting language toward another, impugn his honor, delicacy or reputation.

7-1-2 BATTERY. It is unlawful for any person to beat, strike, wound, inflict violence or apply force to the person of another, nor shall a person intentionally touch or apply force to the person of another in a rude, insolent, angry or hostile manner except in connection with an exhibition duly authorized and licensed under law, or in lawful self defense, or in the line of duty as a duly authorized police officer as circumstances warrant.

7-1-3 TRESPASS. It is unlawful, with malicious intent, to enter or remain upon the property of another knowing that consent to enter or remain has been denied or withdrawn by the owner or occupant thereof.

7-1-4 PROWLING. It is unlawful to lurk, lie in wait or be concealed upon the property of another without physical or lawful business with owner or occupant thereof.

7-1-5 DISTURBING THE PEACE. It is unlawful for any person to disturb or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly and intentionally permit such conduct upon any property owned by him or under his control or supervision.

7-1-6 UNREASONABLE NOISE. It is unlawful for any person to make, continue or cause to be made, any loud or unusual noise which either annoys, disturbs, injures or endangers the comfort repose, health, peace or safety of others between the hours of 10:00 pm and 7:00 am.

(a) Exclusions. Exclusions and exempted from the operation and effect of this Section are the following:

1. Noise which result from the use of properly maintained agricultural and irrigation equipment;
2. Noise from livestock and fowl;
3. Noise which results from engaging in the construction or repair of a building between the hours of 7:00 a.m., and 9:00 p.m.

7-1-7 DISORDERLY CONDUCT. A person is guilty of disorderly conduct if, with a purpose to cause public danger, alarm, disorder or nuisance willfully:

- (a) Creates a disturbance of the public order by an act of violence or by any act likely to produce violence; or,
- (b) Engages in fighting, or in violent, threatening or tumultuous behavior; or,
- (c) Addresses abusive language or threats to any person present which creates a clear and present danger of violence; or
- (d) Commits a trespass on residential property or on public property. Trespass for the purpose of this section shall mean:
 - 1. Entering upon, or refusing to leave, any residential or business property of another, either where such property has been posted with "No Trespassing" signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry or continued presence is prohibited;

- 7-1-8 INTOXICATION. It is unlawful for any person to be in an intoxicated condition in any public place whether as a result of the use of narcotics, drugs, fumes, stimulants, depressants, glues, cements. Persons who are intoxicated due to the use of alcoholic beverages may be transported to their residences or to a facility for protective custody or treatment as provided by the Detoxification Act, 43-2-16 through 43-2-22 NMSA (1978 comp.).
- 7-1-9 DRINKING IN PUBLIC. It is unlawful to consume alcoholic beverages in or on any public place except those establishments having a license to dispense alcoholic beverages.
- 7-1-10 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble with intent to do any unlawful act by force or violence against the person or property of another or to make any overt act to carry out such unlawful purpose.
- 7-1-11 OBSTRUCTING MOVEMENT. It is unlawful to hinder, annoy or molest persons passing along any street, sidewalk, cross-walk or other public way, or to sit or stand around the entrance of any church, theater, public building, or other place of public assemblage in any manner so as to unreasonably obstruct such entrance or to place or erect upon any public way an obstruction of any type except temporary barriers or warning signs placed for purpose of safeguarding the public against any hazard.

7-1-12

REMOVAL OF BARRICADES. It is unlawful to remove, destroy or interfere with any barrier, guard or light placed before or in any dangerous place near the streets, sidewalks or other public ways of the Town for the purpose of warning or protecting travelers from injury or danger, provided that removed after the danger has ceased and temporary removal to allow the passage of a vehicle with immediate subsequent replacement shall not be considered unlawful.

7-1-13

DEADLY WEAPONS.

- (a) Deadly weapons defined: Means any loaded firearm or any weapon which is capable of producing death or great bodily harm, including, but not restricted to any types of daggers, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword, canes and any kind of sharp pointed canes, also slingshots, bludgeons and any other instrument when used in such negligent manner, and/or with intent, with which dangerous wounds can be inflicted.
- (b) Unlawfully Carrying Deadly Weapons: It is unlawful to carry a deadly weapon concealed in any manner making it not readily visible on the person, or in close proximity thereto, so that the weapon is readily accessible for use, except:
 - 2. in the person's residence or on real property belonging to him as owner, lessee, tenant or licensee; or,
 - 3. in a private automobile or other private means of conveyance for the lawful protection of his person and/or property, or the person or property of another; or,
 - 4. by a peace officer in the lawful discharge of his duties; or,
 - 5. licensed by proper and current State of New Mexico Carry and Concealed permit.
- (c) Exceptions: The provisions set forth in paragraph (b) shall not be construed to forbid the following:
 - 1. the carrying of any unloaded firearm; or,

2. peace officers from carrying, wearing or discharging such weapons as shall be necessary in the proper discharge of their duties; or,
3. public or religious ceremonies under the direction or supervision of a police officer.

(d) Negligent Use of Weapons: It is unlawful for any person to make negligent use of a weapon, consisting of either:

1. discharging a weapon within the Town limits, except in the immediate, emergency protection of life and/or property; and or animals/livestock or authorized legal hunting activity, or;
2. carrying or having within one's reach or immediate grasp a deadly weapon while under the influence of intoxicating liquor or other drug; or,
3. endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner; or,
4. selling, loaning or furnishing any deadly weapon to a person with knowledge that the person is under the influence of alcohol or other drug, or that the person is incompetent;
5. An exception is made for a firing range which meets the requirements of State and Federal agencies to include but not limited to the Environmental Protection Agency as well as the Occupational Safety and Health Administration (OSHA).

(e) Sales to Minors: It is unlawful to give, sell, trade, barter or exchange for anything of value any deadly weapon, air rifle, air gun or B-B gun or ammunition for any firearm to any person under the age of eighteen (18) years provided that this section shall not be construed to prevent any parent or legal guardian from purchasing firearms or ammunition for his child or ward.

7-1-14

FAILURE TO REPORT TREATMENT OF WOUNDS. It is unlawful for any physician, surgeon or other practitioner of the healing arts licensed by the State of New Mexico to fail to immediately report to the Police

Department his treatment of any person in the Town for a wound inflicted by a deadly weapon of any kind.

- 7-1-15 PROPELLING OF MISSILES.
- (a) Propulsion of Missiles Defined: Means shooting, slinging or throwing snowballs, rocks, stones, pellet, B-B shot or any kind of missile, object or substance whatsoever in any manner as to be reasonably likely to cause injury to any person or property.
 - (b) The propulsion of missiles shall be unlawful within the Town limits except that this provision shall not be construed to prohibit target firing.
- 7-1-16 POSSESSION OF BURGLARY TOOLS. It is unlawful to possess any lockpick, skeleton key or key to be used with a bit or bits, jimmy, sledge hammer, pry bar, cold chisel, dynamite, nitroglycerin, blasting caps or other burglary tools unless such possession is for a lawful purpose.
- 7-1-17 FALSE ALARMS. It is unlawful for any person to make, turn in or give a false alarm of fire or of need for police or ambulance assistance, or to interfere with the proper functioning of an alarm system, or to aid or abet the commission of such an act.
- 7-1-18 FALSE REPORTS. It is unlawful for any person to make or file with the police or fire department any false, misleading or unfounded report or statement concerning the commission or alleged commission of any crime.
- 7-1-19 INTERFERENCE WITH OFFICER. It is unlawful to resist, abuse, molest, hinder or obstruct or refuse to obey or assist when called upon to do so, any police officer, fireman or judge while in the discharge of his duty.
- 7-1-20 IMPERSONATING AN OFFICER. It is unlawful for any person, other than a duly commissioned police officer, to wear or carry the uniform, apparel, badge, identification card or other insignia of office, the same, similar or a colorable imitation of that adopted and worn or carried by duly commissioned police officers unless acting in the course of regular business and with the permission of the Town without authority to exercise the functions of, or pretend to be, a peace officer or judge.
- 7-1-21 UNAUTHORIZED USE OF CERTAIN WORDS AND INSIGNIA. It is unlawful to display on any vehicle or sign the words "police", "police department", "fire department", or words or insignia of similar impost

without the authority of the Mayor, provided that nothing contained herein shall apply to any State or County vehicle.

7-1-22

POSSESSION OF MARIJUANA.

- (a) Definition of Marijuana. "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.
- (b) Unlawful Possession of Marijuana. It is unlawful to possess one (1) ounce or less of marijuana which was not obtained directly from, or pursuant to, a valid prescription or order of a doctor of medicine while acting in the course of his professional practice, or as otherwise authorized by law.
- (c) Penalties. Whoever unlawfully possesses one (1) ounce or less of marijuana is guilty of violating this Municipal Code.

7-1-23

DRUG PARAPHERNALIA PROHIBITED.

- (a) It is unlawful for any person to use or possess with intent to use any drug paraphernalia.
- (b) Drug paraphernalia means all equipment, products or materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance (as authorized by law) analog in violation of the State of New Mexico Controlled Substances Act. It includes, but is not limited to:
 - 1 Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled

substance or controlled substance analog or from which a controlled substance can be derived;

- 2 Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs;
- 3 Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;
- 4 Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;
- 5 Scales or balances used, intended for sell or designed for use in weighing or measuring controlled substances or controlled substance analogs;
- 6 Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose, lactose, used, intended for use or designated for use in cutting controlled substances or controlled substance analogs;
- 7 Separation gins and snifters used, intended for user or designed for use in removing twigs and seeds from or in otherwise cleaning and refining marijuana;
- 8 Blenders, bowls, containers, spoons and mixing devices used in compounding controlled substances or controlled substance analogs;
- 9 Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances or controlled substance analogs;
- 10 Containers and other objects used, intended for use or designed to use in storing or concealing controlled substances or controlled substance analogs;
- 11 Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally

injecting controlled substances or controlled substance analogs into the human body;

12 Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

A metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

B water pipes;

C carburetion tubes and devices;

D smoking and carburetion masks;

E roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;

F miniature cocaine spoons and cocaine vials;

G chamber pipes;

H carburetor pipes;

I electric pipes;

J air-driven pipes;

K chilams;

L bongs;

M ice pipes or chillers; and,

(c) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements made by the owner or by anyone in control of the object concerning its use;

2. The proximity of the object, in time and space, to a direct violation of the Controlled Substances Act or any other law relating to controlled substances or controlled substance analogs;
3. The proximity of the object to controlled substances or controlled substance analogs;
4. The existence of any residue of any controlled substances or controlled substance analogs;
5. Instructions, written or oral, provided with the object concerning its use;
6. Descriptive materials accompanying the object that explain or depict its use;
7. The manner in which the object is displayed for sale; and,
8. Expert testimony concerning its use.

7-1-24 VIOLATION. Violation of this section is a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days, or both.

SECTION 7-2

OFFENSES RELATING TO PROPERTY

- 7-2-1 DESTROYING, INJURING, REMOVING, TAMPERING WITH OR DEFACING PROPERTY
 - 7-2-2 SCATTERING TRASH; RUBBISH
 - 7-2-3 PETTY LARCENY; CONVERSION, EMBEZZLEMENT; FRAUD
 - 7-2-4 RECEIVING STOLEN PROPERTY
 - 7-2-5 SHOPLIFTING
 - 7-2-6 ISSUING WORTHLESS CHECKS
 - 7-2-7 REMOVAL OF EARTH
 - 7-2-8 VIOLATION
- 7-2-1 DESTROYING, INJURING, REMOVING, TAMPERING WITH OR DEFACING PROPERTY. It is unlawful for any person to willfully, maliciously, or wantonly destroy, injure, remove, tamper with or deface real property or

improvements thereto or personal property, either public or private, belonging to any other person, association or corporation.

- 7-2-2 SCATTERING TRASH; RUBBISH. It is unlawful for any person to throw or permit to be deposited or scattered upon any sidewalk, alley, street or public property or upon the private property of another, any refuse such as rubbish, waste trash or other disposed material of any kind.
- 7-2-3 PETTY LARCENY; CONVERSION; EMBEZZLEMENT; FRAUD. It is unlawful for any person to steal, convert, embezzle or acquire by fraud the property of another including any money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange, or other bills, orders, certificates or any books of account for or concerning money due or to become due and to be delivered. If the property stolen, converted, embezzled or acquired by fraud exceeds the value of One Hundred Dollars (\$100.00), the matter shall be referred to the District Attorney.
- 7-2-4 RECEIVING STOLEN PROPERTY. It is unlawful to buy, procure, receive or conceal anything of value knowing or having reasonable cause to believe the same to have been stolen, converted, embezzled or acquired by fraud. It is unlawful to sell, conceal or purchase any item with a value of \$250 or less.
- 7-2-5 SHOPLIFTING. It is unlawful for any person to willfully take possession of or conceal any merchandise offered for sale with the intention of converting it without paying for it or to willfully alter any label, price tag or marking upon any merchandise, or transfer any merchandise from one container to another with the intention of depriving the merchant of all or part of the value of the merchandise.
- 7-2-6 ISSUING WORTHLESS CHECKS. It is unlawful to issue in exchange for anything of value with intent to defraud any check, draft or order for payment in money in the amount of One Dollar (\$1.00) to Twenty-Five Dollars (\$25.00) upon any bank or other depository knowing at the time of such issue that insufficient funds or credit exists with the bank or other depository for the payment in full by such check, draft or order. Any person convicted of issuing worthless checks shall be imprisoned for no more than thirty (30) days or fined not more than Three Hundred Dollars (\$300.00) or receive both such imprisonment and fine.
- 7-2-7 REMOVAL OF EARTH. It is unlawful for any unauthorized person to move, distribute or take away any earth, stone or other material from the public street, easement, alley, park or public ground.
- 7-2-8 VIOLATION. Anyone found guilty, either by trial or admission, will be subject to the penalties and fines allowed by the Municipal Court.

SECTION 7-3

OFFENSES RELATING TO PUBLIC NUISANCE

7-3-1	PUBLIC NUISANCE
7-3-2	POLLUTING WATER
7-3-3	ABANDONMENT OF DANGEROUS CONTAINERS
7-3-4	PLACING INJURIOUS SUBSTANCES ON HIGHWAYS
7-3-5	DOOR-TO-DOOR SALES
7-3-6	GAMBLING
7-3-7	PROSTITUTION
7-3-8	ADULT ENTERTAINMENT FACILITIES
7-3-9	INDECENT EXPOSURE
7-3-10	LITTERING
7-3-11	CRIMINAL DAMAGE TO PROPERTY (TAGGING, GRAFFITTI)
7-3-12	VIOLATION

7-3-1 PUBLIC NUISANCE. It is unlawful to knowingly create, perform or maintain anything affecting any number of citizens without lawful authority which is either:

- A. Injurious to public health, safety, morals or welfare; or,
- B. Interferes with the exercise and enjoyment of public rights including the right to use and the enjoyment of public property;

7-3-2 POLLUTING WATER. It is unlawful to knowingly and unlawfully introduce any object or substance into any body of public water causing it to be offensive or dangerous for human or animal consumption or use. Polluting water constitutes a public nuisance. For the purpose of this section, "body of water" means any public river or tributary thereof, stream, lake, pond, reservoir, acequia, canal ditch, spring well or declared or known ground water.

7-3-3 ABANDONMENT OF DANGEROUS CONTAINERS.

- A. It is unlawful to abandon, discard, or keep in any place accessible to children, any refrigerator, icebox, freezer, air-tight container, cabinet or similar container, of a capacity of one and one-half (1 ½) cubic feet or more, which is no longer in use, without having the attached doors, hinges, lids or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein.

- B. It is unlawful for any owner, lessee or manager of any premises to knowingly permit any such above-described container to remain upon such premises in a condition whereby anyone may be imprisoned therein.

7-3-4 PLACING INJURIOUS SUBSTANCES ON HIGHWAYS. It is unlawful for any person to throw, deposit or place any glass, bottles, nails, tacks, hoops, wire, cans or any other material or substance upon any public highway, which cause or which are likely to cause injury to any person, animal or vehicle traveling upon such highway.

7-3-5 DOOR-TO-DOOR SALES.

- A. The practice of solicitors, hawksters, peddlers, itinerant merchants or transient vendors (except newspapers) going in or upon private premises in the Town of Peralta, New Mexico, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residence, for the purpose of soliciting orders for the sale of goods, wares, merchandise or publications, other than newspapers, or for the purpose of disposing or peddling or hawking the same, is hereby declared to be a nuisance and such practices are prohibited by this Ordinance constituting a nuisance.
- B. The provisions of this Ordinance shall not apply to the sale, delivery or soliciting orders for newspaper publications and the provisions of this Ordinance shall not apply to the sale of or soliciting of orders for the sale of milk, dairy products, poultry, eggs and other farm and garden produce so far as the sale of the commodities named in this Section are authorized by law.
- C. The provisions of this Ordinance shall not apply to local non-profit organizations.

7-3-6 GAMBLING. It is unlawful for any person to promote, engage in or knowingly allow to take place upon their property, whether owned, rented or leased, gambling and/or the use of fraudulent devices or practices for the purpose of obtaining money or property.

7-3-7 PROSTITUTION. It is unlawful to engage in prostitution.

- A. Prostitution consists of knowingly engaging in or offering to engage in sexual acts for hire. Whoever commits prostitution is guilty of a misdemeanor.
- B. Patronizing prostitutes consists of:

1. entering or remaining in a house of prostitution with intent to engage in sexual acts with a prostitute; or
2. knowingly hiring a prostitute to engage in sexual acts. Whoever commits patronizing prostitutes is guilty of a misdemeanor.

C. Promoting prostitution consists of any person:

1. knowingly establishing, owning, maintaining, or managing a house of prostitution, or participating in the establishment, ownership, maintenance or management thereof;
2. knowingly permitting any place which a person partially or wholly owned or controlled to be used as a house of prostitution;
3. knowingly procuring a prostitute for a house of prostitution;
4. knowingly inducing another to become a prostitute;
5. knowingly soliciting a patron for prostitution or for a house of prostitution;
6. knowingly procuring a prostitute for a patron;
7. knowingly procuring transportation for, paying for the transportation of, or transporting a person within Peralta with the intention of promoting that person's engaging in prostitution; or
8. knowingly being employed by a house of prostitution to perform any function which constitutes promoting prostitution. Whoever commits promoting prostitution is guilty of a misdemeanor.

D. Testimony of witnesses to prostitution and lewdness. In any investigation, proceeding, preliminary hearing, or trial before any court, magistrate, or grand jury concerning a violation of or an attempt to commit any crime in violation of this Section, no person shall be excused from giving testimony or producing documentary or other evidence material to such investigation, proceeding, preliminary hearing or trial on the ground that the testimony or

evidence required of him is incriminating evidence; provided that any person who is so subpoenaed and ordered to testify or produce evidence concerning such crimes shall be immune to prosecution or conviction for any violation of such crimes about which they may testify.

- E. EVIDENCE. In any proceeding under this Section, testimony about the following circumstances is admissible in evidence:
1. the general reputation of the place;
 2. the reputation of the persons who reside in or frequent the place;
 3. the frequency, timing and length of visits by non-residents; and,
 4. prior convictions of the defendant or persons who reside in or frequent the place under this Section, or any other offense of like nature wherever committed.
- F. A house of prostitution is a public nuisance per se.

7-3-8

ADULT ENTERTAINMENT FACILITIES. It is unlawful to engage in adult entertainment.

- A. As used in this Section, the following terms shall have the following meanings:
1. "Specified sexual activities" means:
 - a. human genitals in the state of sexual stimulation or arousal;
 - b. acts of human masturbation, sexual acts, sodomy or bestiality;
 - c. fondling of other erotic touching of human genitals, pubic region, buttock or female breast.
 2. "Specified anatomical areas" means:
 - a. less than completely and opaquely covered:
 1. human genitals;

2. human buttock; and
3. human female breast below a point immediately above the top of areola;

b. human male genitals in a discernibly turgid state, even completely and opaquely covered.

3. "adult newsrack" means any coin-operated machine or other display which offers for sale material substantially devoted to the depiction of "specified sexual activities" or "specified anatomical areas".

4. "adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are substantially devoted to the depiction of "specified sexual activities" or "specified anatomical areas".

5. "adult motion picture theater" means an enclosed building used for presenting material in the form of motion picture, film, video tape, or other similar means which is substantially devoted to the depiction of "specified sexual activities" or "specified anatomic areas" for the observation by persons therein.

B. Location of adult bookstores, movie theaters, and newsracks. No person, whether as a principal or agent, clerk or employee, either for themselves or any other person, or as an officer or a corporation, or otherwise, shall place, maintain, own or operate any adult bookstore, adult movie theater, or adult newsrack in the following locations:

Within one thousand feet of any parcel of real property on which is located any of the following facilities:

1. a school primarily attended by minors;
2. a church which conducts religious education classes for minors;
3. a public park, or public recreation facility;
4. any residential area; and
5. a business frequented by minors.

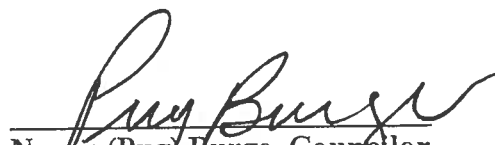
C. Public display of certain matter prohibited. Materials offered for sale from adult entertainment facilities or any pictures or illustrations of adult human genitals or specified sexual activities shall not be displayed or

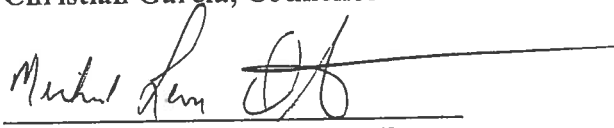
exhibited in a manner which exposes said material to the view of persons outside the building in which said facilities are located.

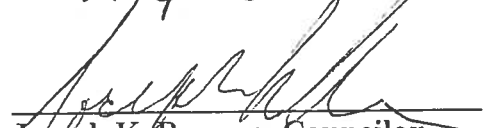
- 7-3-9 INDECENT EXPOSURE. It is unlawful to commit indecent exposure. Indecent exposure consists of a person knowingly and intentionally exposing his/her genital area, buttock, including the cleft between the buttock or female breasts, to public view. Primary genital area means the mons pubis, penis, testicles, mons veneris, vulva or vagina. Indecent exposure does not include a woman breast feeding an infant in a reasonably prudent manner in public.
- 7-3-10 LITTERING. It is unlawful for any person to throw, deposit or leave any trash or discarded materials on public or private property without the owner's consent. Anyone in violation of this Ordinance will be subject to the penalties and fines allowed by the Municipal Court, including the fees or costs to clean the material and its removal.
- 7-3-11 CRIMINAL DAMAGE TO PROPERTY (TAGGING) (GRAFFITTI). It is unlawful for any person to disfigure any property, either public or private, in any way using any means which causes physical damage without the owner's explicit consent.
- 7-3-12 VIOLATION. Anyone found guilty of violating this Ordinance will be subject to the penalties and fines allowed by the Municipal Court. The penalties can include the fees, costs and removal of the damage.

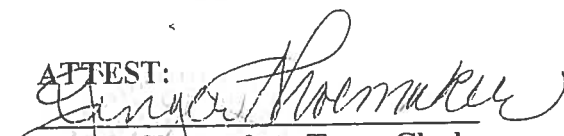
PASSED, APPROVED AND ADOPTED this 8th day of June, 2011.


Christian Garcia, Councilor


Nancy (Pug) Burge, Councilor


Michael Leon Otero, Councilor


Joseph K. Romero, Councilor

ATTEST:

Ginger Shoemaker, Town Clerk