

Ordinance No. 9479 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO THE LICENSING AND REGULATION OF ADULT ENTERTAINMENT ESTABLISHMENTS

WHEREAS, adult entertainment establishments require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of the patrons of such establishment as well as the citizens of the County; and

WHEREAS, the Board of Supervisors finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, potential for excessive noise, disorderly conduct, and the downgrading of property values; and

WHEREAS, it is recognized that adult entertainment establishments, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the County has a substantial government interest in preventing the employment of underage persons from working for or being employed in adult entertainment establishments; and

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

WHEREAS, the Board of Supervisors has determined that locational criteria alone do not adequately protect the health, safety, and general welfare of the people of this County; and

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

WHEREAS, with the passage of any ordinance, the County Board of Supervisors accepts 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 First Amendment of the U.S Constitution or the free speech provisions of the California State Constitution, but to enact a content neutral ordinance which addresses the secondary effects of adult entertainment establishments, and the Board of Supervisors hereby declares that any reading of the language of this ordinance that would unconstitutionally infringe on such rights is contrary to the Board of Supervisors' intent in enacting this content-neutral ordinance

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: Section 21.1801 - 21.1833 of the Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.1801. LEGISLATIVE PURPOSE AND FINDINGS.

- (A) Purpose. It is the purpose of this ordinance to regulate adult entertainment establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform

regulations to prevent the deleterious secondary effects of adult entertainment establishments within the County. The provisions of this ordinance 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 ordinance 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 ordinance to condone or legitimize the distribution of obscene material.

- (B) Findings. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton V. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002); *California v. LaRue*, 409 U.S. 109 (1972); *Davis v. Gates*, No. 91-56174, 1992 U.S. App. LEXIS 22417 (9th Cir., July 7, 1992); *KEV; Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Alameda Books, Inc. v. City of Los Angeles*, 2002 U.S. Lexis 3424; *Colacurcio v. Kent*, 163 F.3d 545 (9th Cir. 1998); *North v. City of Gilroy*, 1996 U.S. App. LEXIS 5368 (9th Cir. 1996); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *L.J. Concepts, Inc. v. City of Phoenix*, CV-98-1583-EHC (D. Ariz. 1999), *aff'd per curiam*, No.99-17270 (9th Cir., Mar.30, 2000); *IDK, Inc. v. County of Clark*, 836 F.2d 1185 (9th Cir 1988); *Baby Tam & Co. v. City of Las Vegas*, 154 F.3d 1097 (9th Cir. 1998) (*Baby Tam I*); *Baby Tam & Co. v. City of Las Vegas*, 199 F.3d 1111 (9th Cir. 2000) (*Baby Tam II*); *Baby Tam & Co. v. City of Las Vegas*, 247 F.3d 1003 (9th Cir. 2001) (*Baby Tam III*); *4805 Convoy, Inc. v. City of San Diego*, 183 F.3d 1108 (9th Cir. 1999); *Lydo Enterprises, Inc. v. City of Las Vegas*, 745 F.2d 1211 (9th Cir. 1984); *Tily B., Inc. v. City of Newport Beach*, 69 Cal. App. 4th 1 (Cal. Ct. App. 1998); *Sundance Saloon, Inc. v. City of San Diego*, 213 Cal. App. 3d 807 (Cal. Ct. App. 1989); *7978 Corporation v. Pitchess*, 41 Cal. App. 3d 42 (Cal. Ct. App. 1974); *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal. App. 3d 980 (Cal. Ct. App. 1985); *E. WA.P., Inc. v. City of Los Angeles*, 65 Cal. Rptr. 2d 325 (Cal. Ct. App. 1997); *City of National City v. Wiener*, 838 P.2d 223 (Cal. 1990); and other cases; and reports of secondary effects occurring in and around adult entertainment establishments, including, but not limited to, Phoenix, Arizona -1984; Minneapolis, Minnesota-I 980; Houston, Texas -1997;

Indianapolis, Indiana -1984; Amarillo, Texas -1977; Garden Grove, California -1991; Los Angeles, California -1977; Whittier, California-1978; Austin, Texas -1986; Seattle, Washington -1989; Oklahoma County, Oklahoma -1986; Cleveland, Ohio -1977; Dallas, Texas -1997; Tucson, Arizona -1990; St Croix County, Wisconsin -1993; Bellevue, Washington, -1998; Newport News, Virginia -1996; New York, New York -1994; Phoenix, Arizona -1995-98; and from summaries of several of the foregoing secondary effects reports; and also on findings from the paper entitled "Strip clubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan 12, 2000; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6,1989, State of Minnesota), the Board finds:

- (1) Adult Entertainment Establishments lend themselves to ancillary unlawful and unhealthy activities that cause deleterious secondary effects in the establishments and in the areas surrounding them
This ordinance is designed to make the owners and operators of these establishments responsible, within constitutional boundaries, for the activities that occur on their premises
- (2) Certain employees of unregulated adult entertainment establishments defined in this ordinance as adult cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments
- (3) Sexual acts, including masturbation and oral and anal sex, occur at unregulated adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for viewing films or videos or live striptease and sex shows
- (4) Offering and providing such unregulated space encourages unsanitary activities, which creates unhealthy conditions
- (5) Persons frequent certain adult cabarets, adult arcades, and other adult entertainment establishments for the purpose of engaging in illicit sexual activities within the premises of such adult entertainment establishments, or for the purpose of purchasing or selling illicit drugs

- (6) Numerous communicable diseases may be spread by activities occurring in adult entertainment establishments.
- (7) According to research from the Kaiser Family Foundation, an estimated 650,000 to 900,000 Americans are infected with HIV. The number of new HIV infections occurring each year is now about 41,000. Men and women of all races are most likely to be infected by sexual contact.
- (8) Relevant statistics revealed that a total of 117,521 AIDS cases have been reported in California through June of 2000. Of the 50 United States, California has the second- highest number of AIDS cases and represents more than 15% of the 753,907 AIDS cases reported.
- (9) The Centers for Disease Control and Prevention estimates that as many as 1 in 3 people with HIV do not know they are infected.
- (10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.
- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
- (12) The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (14) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

- (15) Numerous studies and reports have determined that semen is found in the areas of adult entertainment establishments where persons view "adult" oriented films and live sexual shows.
- (16) The findings noted in paragraphs number 1 through 15 raise substantial governmental concerns.
- (17) Adult Entertainment Establishments have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- (18) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult entertainment establishments. Further, such a licensing procedure will give an incentive on the operators to see that the adult entertainment establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the County. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult entertainment establishment, in ultimate possession and control of the premises and activities occurring therein.
- (19) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult entertainment establishments.
- (20) Requiring licensees of adult entertainment establishments to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing criminals and minors from working in such establishments.
- (21) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment establishment, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of crime, blight, and dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them;

- (22) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witnesses to such activity.
- (23) The fact that an applicant for an adult use has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.
- (24) The barring of such individuals from employment in adult entertainment establishments for a specified period of years serves to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the County
- (25) The general welfare, health, and safety of the citizens of the County will be promoted by the enactment of this ordinance.

SEC 21.1802. DEFINITIONS

For the purpose of this chapter, "adult entertainment establishment" shall mean the activities listed in Section 6930 d., and as defined in Section 1110, of the San Diego County Zoning Ordinance. When any term is not defined in this chapter, the definitions in Section 1110 of the San Diego County Zoning Ordinance shall apply.

A. Controlling Interest.

"Controlling Interest" means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power to vote twenty per cent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

B. Distinguished or Characterized by an Emphasis Upon.

"Distinguished or Characterized by an Emphasis Upon" means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specified sexual activities."

C. Employ, Employee, and Employment.

"Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of an adult entertainment establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises. This definition is provided solely for interpreting this chapter.

D. Establish or Establishment.

"Establish or Establishment" shall mean and include any of the following:

- a. The opening or commencement of any adult entertainment establishment as a new business;
- b. The conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
- c. The addition of any adult entertainment establishment to any other existing adult entertainment establishment; or
- d. The relocation of any adult entertainment establishment.

E. Hearing Officer.

"Hearing Officer" shall mean the Board of Supervisors of the County of San Diego or a designee of the Board of Supervisors.

F Licensee.

"Licensee" shall mean a person in whose name a license to operate a adult entertainment establishment has been issued, as well as the individual or individuals listed as an applicant on the application for a adult entertainment establishment license. In case of an "employee," it shall mean the person in whose name the adult entertainment establishment employee license has been issued.

G. Nudity or State of Nudity.

"Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, penis, 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.

H. Operate or Cause to be Operated or Operator.

"Operate or Cause to Operate" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any persons on the premises of a adult entertainment establishment who is authorized to exercise overall operational control of the Establishment or who causes to function or who puts or keeps in operation the establishment. A person may be found to be operating or causing to be operated a adult entertainment establishment whether or not that person is an owner, part owner, or licensee of the establishment.

I. Person.

"Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

J. Regularly Features or Regularly Shown.

"Regularly Features or Regularly Shown" means a consistent and substantial course of conduct, such that the sexually explicit films or seminude performances exhibited constitute an ongoing and intentional objective of the business and are promoted as such.

K. Semi-Nude or State of Semi-Nudity.

"Semi-nude" or semi-nudity" shall mean a state of dress in which opaque clothing covers no more than the genitals, penis, anal cleft, cleavage,

pubic area, vulva and nipple of the female breast as well as portions of the body covered by supporting straps or devices

L. Specified Criminal Activity.

"Specified criminal activity" means any of the following offenses:

- (1) Any offense described in California Penal Code sections 261 [Rape], 266(h) [Pimping], 266(i) [Pandering], 315, 316, 318 (House for Gambling or Prostitution), 647b [soliciting] or any offense described in California Penal Code Part I, Title 9, Chapters 7~5 [Obscene Matter] and 7.6 [Harmful Matter], any felony offense requiring registration under Penal Code section 290 except for Penal Code section 314; any offense described in California Health and Safety Code section 11351 [Possession/Purchase for Sale of Controlled Substance]; any felony offense requiring registration under Health and Safety

Code section 11590; criminal attempt, conspiracy, solicitation to commit any of the foregoing offenses; or offenses committed in another jurisdiction which, had the predicate acts been committed in California, would constitute any of the specified offenses or criminal attempt, conspiracy or solicitation to commit any of the specified offenses; for which:

- (a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
- (b) Less than five years have elapsed since the date of conviction, or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
- (c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

- (2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

M. Transfer of Ownership or Control.

"Transfer of Ownership or Control" of a adult entertainment establishment shall mean any of the following:

- a. The sale, lease, or sublease of the establishment;
- b. The transfer of securities which constitute a controlling interest in the establishment, 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 establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

N. Viewing Room.

"Viewing Room" shall mean the room, booth, or area where a patron of a adult entertainment establishment would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

SEC 21.1803. LICENSE REQUIRED.

- (A) It shall be unlawful for any person to operate an "adult entertainment" establishment in the County of San Diego without a valid adult entertainment establishment license.
- (B) It shall be unlawful for any person to be an employee as defined in this Chapter, of an adult entertainment establishment in the County of San Diego without a valid adult entertainment establishment employee license.
- (C) An applicant for an adult entertainment establishment license or an adult entertainment establishment employee license shall file in person at the office of the County Sheriff a completed application made on a form provided by the County Sheriff. The application shall be signed by the applicant.

(D) An application shall be considered complete when it contains the information required in Paragraphs I through 6 as follows:

- 1 The applicant's full true name and any other names or aliases used in the preceding five (5) years.
- 2 Current business address or another mailing address of the applicant.
3. Written proof of age, in the form of a birth certificate or driver's license or other picture identification document issued by a governmental agency.
4. If the application is for an adult entertainment establishment license, the establishment name, location, legal description, mailing address and phone number (if one currently exists) of the proposed adult entertainment establishment.
5. If the application is for an adult entertainment establishment license, the name and address of the statutory agent or other agent authorized to receive service of process.
6. A statement whether the applicant has been convicted or has pled guilty or nob contendre to a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

The information provided pursuant to Paragraphs I through 6 of this subsection shall be supplemented by notice in writing by certified mail, return receipt requested, to the County Sheriff within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(E) An application for a adult entertainment establishment license shall be accompanied by a sketch or diagram showing the configuration of the premises, including general demarcations of where goods will be displayed, performances will be conducted, or where films or other visual media will be exhibited, along with a statement of total floor space occupied by the establishment. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with

Section 21.1814 of this chapter shall submit a diagram meeting the requirements of that section.

- (F) If a person who wishes to operate an adult entertainment establishment is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate an adult entertainment establishment is other than an individual, each officer, director, general partner or other person who will manage or participate directly in the decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 21.1804 and each applicant shall be considered a licensee if a license is granted.
- (G) A license or permit required by this article is in addition to any other licenses or permits required by the county or state to engage in the business or occupation. Persons engaged in the operation of adult entertainment establishments or in employment in adult entertainment establishment shall comply with all other applicable local, state, and federal laws, ordinances, and statutes, including zoning ordinances, as may be required.
- (H) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the County Sheriff on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

SEC. 21.1804. ISSUANCE OF LICENSE.

- (A) Upon the filing of a completed application under section 21.1803 for an adult entertainment establishment license, the County Sheriff shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the County to deny or grant the license. Within thirty (30) days of the initial filing date of the completed application, the Sheriff shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The County Sheriff shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:
 - 1. An applicant is less than eighteen (18) years of age.

2. An applicant has failed to provide information as required by Section 21.1803 for issuance of a license or has falsely answered a question or request for information on the application form.
 3. The license application fee required by this Chapter has not been paid.
 4. An applicant has been convicted of a specified criminal activity, as defined in this ordinance
 5. The adult entertainment establishment premises are in violation of the locational requirements of the County Zoning Ordinance or are not in compliance with the interior configuration requirements of this Chapter.
- (B) Upon the filing of a completed application for an adult entertainment establishment employee license, the County Sheriff shall issue a Temporary License to the applicant, which temporary license shall expire upon the final decision of the County to deny or grant the license. Within thirty (30) days of the initial filing date of the receipt of a completed application, the Sheriff shall either issue a license or issue a written notice of intent to deny a license unless one or more of the following is found by a preponderance of evidence to be true:
1. An applicant is less than eighteen (18) years of age.
 2. An applicant has failed to provide information as required by Section 21.1803 for issuance of a license or has falsely answered a question or request for information on the application form.
 3. The license application fee required by this Chapter has not been paid.
 4. An applicant has been convicted of a specified criminal activity, as defined in this ordinance.
- (C) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for an adult entertainment establishment, the address of the adult entertainment establishment. The adult entertainment establishment license shall be posted in a conspicuous place at or near the entrance to the adult entertainment establishment so that it may be easily read at any time. An

adult entertainment establishment employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other county official performing a function connected with the enforcement of this Chapter.

SEC. 21.1805 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate an adult entertainment establishment under the authority of a license at any place other than the address designated in the adult entertainment establishment license application

**SEC 21.1806. ADULT ENTERTAINMENT
ESTABLISHMENT LICENSE FEE.**

The initial license and annual renewal fees for an adult entertainment establishment license or an adult entertainment establishment employee license shall be set by the Board of Supervisors at an amount determined by the Board sufficient to pay the cost of administering this Ordinance. The current fees are two hundred ninety-four dollars (\$294) for the initial fee of a business and two hundred eighty dollars (\$280) for annual renewal; and eighty-eight dollars (\$88) for the initial employee license and fifty-two dollars (\$52) for annual renewal.

SEC. 21.1807. EXPIRATION OF LICENSE.

Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Sections 21.1803 and 21.1806. Application for renewal should be made at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

**SEC. 21.1808. APPLICABILITY OF ORDINANCE TO
EXISTING BUSINESSES.**

All existing adult entertainment establishments and adult entertainment establishment employees are hereby granted a *De Facto* Temporary License to continue operation or employment for a period of one hundred eighty (180) days,

following the effective date of this ordinance. Within said one hundred eighty (180) days, all adult entertainment establishments and adult entertainment establishment employees must make application for a license pursuant to this Chapter. Within said one hundred eighty (180) days, adult entertainment establishments must make any necessary changes to the interior configurations of the regulated establishment premises to conform to this Chapter.

SEC. 21.1809. HOURS OF OPERATION.

It shall be unlawful for any owner, operator, manager or employee of an adult entertainment establishment to allow such establishment to remain open for business between the hours of 2:00 a.m. and 6:00 a.m. of any day excepting herefrom an adult hotel/motel.

SEC. 21.1810. PRIVATE CLUB.

No adult entertainment establishment licensed pursuant to this chapter may allow the premises to be used for the purpose of conducting a private club between the hours of 2:00 a.m. and 6:00 a.m.

SEC. 21.1811. MINORS/WINDOWS AND DOORS.

No person under 18 years of age shall enter, be or remain in or on any premises in which an adult entertainment is presented. An adult entertainment establishment licensee or an adult entertainment establishment employee licensee shall not permit such person to enter, be or remain in or on any such premises.

All exterior windows and doors shall be opaque so as to prevent visibility at all times from outside the structure into the interior of an adult entertainment establishment.

SEC. 21.1812. REGULATIONS CONCERNING LIVE PUBLIC NUDITY.

It is unlawful for an adult entertainment establishment licensee to knowingly violate the following regulations or to knowingly allow an employee or other person to violate the following regulations as applicable:

- a. It shall be a violation of this chapter for a patron, employee or any other person in an adult entertainment establishment, to knowingly or intentionally appear in a state of nudity regardless of whether such public nudity is expressive in nature.
- b. It shall be a violation of this chapter for an employee in an adult entertainment establishment, to knowingly or intentionally appear in a state of semi-nudity unless the employee is at least six (6) feet from the nearest area occupied by patrons and on a stage elevated at least eighteen (18) inches from the floor.
- c. It shall be a violation of this chapter for an employee, who regularly appears in a state of semi-nudity in the adult entertainment establishment, to knowingly or intentionally receive any pay or gratuity directly from any patron, or for any patron to knowingly or intentionally pay or give any gratuity directly to any employee who appears in a state of semi-nudity in the adult entertainment establishment.
- d. It shall be a violation of this chapter for an employee who regularly appears in a state of semi-nudity in an adult entertainment establishment, to knowingly or intentionally touch a customer or the clothing of a customer while on the premises of the establishment

A sign in a form to be prescribed by the County Sheriff summarizing the provisions of paragraphs a, b, c and d of this section shall be posted near the entrance of the adult entertainment establishment in such a manner as to be clearly visible to patrons upon entry.

SEC 21.1813

**SCIENTER REQUIRED FOR VIOLATION OR
RESPONDEAT SUPERIOR.**

Notwithstanding anything to the contrary, for the purposes of this chapter, any act by a patron or an employee must be knowingly committed in order to constitute grounds for a violation, suspension or revocation of that employee's license. Such act shall be imputed to the adult entertainment establishment for purposes of finding a violation of this ordinance or for purposes of license denial, suspension or revocation, only if an officer, director or general partner or person who managed, supervised or controlled the operation of the establishment premises, knowingly allowed such act to occur on the premises.

SEC. 21.1814

**DIAGRAM CONFIGURATION OF PREMISES
FOR AN ADULT ARCADE/PEEP SHOW**

- (1) Each application for an adult entertainment establishment license for an "Adult Arcade/Peep Show" shall contain a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The County Sheriff may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, or walls at all times that any patron is present on the premises.

SEC. 21.1815. PEEP SHOW BOOTHS -- MINIMUM CORRIDOR WIDTH.

No person shall operate a peep show booth in which the width of any adjacent corridor is less than 44 inches. A nonconforming peep show booth with an adjacent corridor measuring at least 42 inches in width on [June 17, 1993,] may remain nonconforming as to the width of the corridor unless and until the booth is remodeled or rebuilt or new booths are constructed.

SEC. 21.1816. PEEP SHOW BOOTHS -- MINIMUM DOORWAYS AND ENTRANCES.

1. No person shall operate a peep show booth unless there are no fewer than 2 doorways of a width no less than 36 inches which provide ingress or egress from any room in which a peep show booth is located. Doorway or doorways shall be unlocked during business hours.
2. No person shall operate a peep show booth in which the height and width of any entrance to the booth is less than 80 inches and 36 inches respectively. A nonconforming peep show booth with an entrance measuring at least 78 inches in height and 34 inches in width on [June 17, 1993,] may remain nonconforming as to the width of such entrance or entrances unless and until the booth is remodeled or rebuilt or new booths are constructed. No door, curtain, or obstruction of any kind shall be installed within the entrance to a peep show booth.

SEC. 21.1817. PEEP SHOW BOOTHS -- MINIMUM SIZE, REQUIRED SIGN, DEVICE LOCATION, OCCUPANT LOAD AND ENFORCEMENT.

1. No person shall operate a peep show booth unless the interior of the viewing area of each peep show booth is a minimum of 24 square feet in floor area, with a minimum width of 4 feet.
2. A sign shall be maintained in a conspicuous location in each peep show booth which reads as follows: "This booth is subject to inspection at any time. Patrons have no expectation of privacy while watching peep show devices." All such signs shall be at least six (6) by eight (8) inches in size and printed with dark ink upon a light contrasting background with letters at least one-quarter inch (1/4") in height.

3. A sign shall be placed above the entrance to each peep show booth which reads as follows: "Only one person may be present in a peep show booth at any one time." All such signs shall be at least six (6) by eight (8) inches in size and printed with dark ink upon a light contrasting background with letters at least one-quarter inch (1/4") in height.

SEC.21 .1818. PEEP SHOW DEVICES -- MAXIMUM NUMBER.

No person shall operate an adult entertainment establishment in which the number of peep show devices exceeds the maximum occupancy load permitted in any room or partitioned portion of a room in which a peep show device is located. The maximum number of peep show devices permitted in any room or partitioned portion of a room in an adult entertainment establishment shall be conspicuously posted, and shall remain posted, at the entrance to said room. All such signs shall be at least six (6) by eight (8) inches in size and printed with dark ink upon a light contrasting background with letters at least one quarter inch (1/4") in height.

SEC. 21.1819. PEEP SHOW -- MANAGEMENT.

No person shall operate a peep show unless a manager is on duty to ensure its lawful operation and is located at a manager's station which has an unobstructed view of the entrance to each peep show booth. The view required by this subsection must be by direct line of sight from the manager's station. No person shall be employed or act as a manager of an adult entertainment establishment unless and until such person has been licensed by the Sheriff under the procedure set forth at Section 21.1803, and paid the fee specified at Section 21.1806, of this division.

- (1) No alteration in the configuration or location of a manager station or viewing room may be made where such alteration fails to conform to the standards of this chapter.
- (2) It shall be the duty of the operator or of any employee present on the premises to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this chapter.

- (3) It shall be the duty of the operator or of any employee present on the premises to ensure that no "specified sexual activity" occurs in or on licensed premises.
- (4) It shall be the duty of the operator or of any employee present on the premises to ensure that not more than one (1) person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
- (5) It shall be the duty of the operator or of any employee present on the premises to ensure that no openings of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.
- (6) It shall be the duty of the operator or of any employee that discovers two or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms to immediately escort such persons from the premises.
- (7) It shall be the duty of the operator or of any employee who discovers an opening of any kind between viewing rooms to immediately secure such rooms and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.
- (8) It shall be the duty of the operator at least once each business day to inspect the walls between viewing rooms for openings of any kind.
- (9) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all the following:
 - (a) That no loitering is permitted in viewing rooms;
 - (b) That the occupancy in viewing rooms is limited to one (1) person;
 - (c) That sexual activity on the premises is prohibited;
 - (d) That the making of openings between viewing rooms is prohibited;and
 - (e) That violators will be required to leave the premises.

- (10) It shall be the duty of the operator to ensure that floor coverings in viewing rooms are non-porous, easily cleanable surfaces, with no rugs or carpeting.
- (11) It shall be the duty of the operator that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by non-porous easily cleanable material.
- (12) It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duties shall be fulfilled if the operator complies with the following cleaning procedures:
 - (a) The operator shall maintain a regular cleaning schedule of at least two (2) cleanings per day documented by written logs;
 - (b) The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week;
 - (c) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces; and
- (13) It shall be unlawful for person having a duty under this section to knowingly fail to fulfill that duty.

SEC. 21.1820. INSPECTION.

- (A) Adult entertainment establishment operators and adult entertainment establishment employees shall permit officers or agents of the County of San Diego to inspect, from time to time on an occasional basis, the portions of the adult entertainment establishment premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Chapter, during those times when the adult entertainment establishment is occupied by patrons or is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall not constitute a misdemeanor, but shall constitute a violation of this section for purposes of license denial, suspension, and/or

revocation. This section shall be narrowly construed by the County to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

- (B) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

SEC. 21.1821. PENALTIES AND ENFORCEMENT.

A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a violation. Each day a violation is committed or is permitted to continue shall constitute a separate offense and shall be treated as such for purposes of license suspension or revocation

The County Counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this Chapter to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the County, provided, however, that nothing in this section and no action taken thereunder shall be held to exclude such criminal proceedings as may be authorized by any local, state, or federal laws in force in the County or to exempt anyone violating this code or any part of said laws from any penalty which may be incurred.

SEC. 21.1822. VIOLATION -- LICENSE SUSPENSION

The County shall issue a written letter of intent to suspend an adult entertainment establishment license for a period not to exceed thirty (30) days if an adult entertainment establishment licensee has knowingly violated this Chapter or has knowingly allowed an employee to violate this Chapter. The County shall issue a written letter of intent to suspend an adult entertainment establishment employee license if the employee has knowingly violated this Chapter.

SEC. 21.1823 REVOCATION.

- (A) The County shall issue a letter of intent to revoke an adult entertainment establishment license or an adult entertainment establishment employee

license if two or more causes of suspension occur within a twelve (12) month period

- (B) The County shall issue a letter of intent to revoke an adult entertainment establishment license or, in the case of an employee, an adult entertainment establishment employee license, for one instance of a violation of the following:
- (1) The licensee has knowingly given false information in the application for the license.
 - (2) The adult entertainment establishment licensee has knowingly allowed possession, use, or sale of controlled substances on the premises, or in the case of an employee, the adult entertainment establishment employee licensee has knowingly engaged in the possession, use, or sale of controlled substances on the premises. It shall be a defense to revocation proceedings under this subsection that such possession, use, or sale occurred pursuant to a valid medical prescription.
 - (3) The adult entertainment establishment licensee has knowingly allowed prostitution on the premises or, in the case of an employee, the adult entertainment establishment employee licensee has engaged in prostitution on any licensed premises,
 - (4) The adult entertainment establishment licensee knowingly operated the adult entertainment establishment during a period of time when the license was suspended or, in the case of an employee, the adult entertainment establishment employee licensee has been employed as an adult entertainment establishment employee at a time when the employee's license was suspended.
 - (5) The adult entertainment establishment licensee has knowingly allowed any specified sexual activity to occur in or on the licensed premises or, in the case of an employee, the adult entertainment establishment employee licensee has engaged in any specified sexual activity in or on any licensed premises.
- (C) The fact that any relevant conviction is being appealed shall have no effect on the revocation of a license.
- (D) Nature of Revocation. When, after the notice and hearing procedure described in Section 21.1824, the Hearing Officer revokes a license, the

revocation shall continue for one (1) year and the licensee shall not be issued an adult entertainment establishment license or adult entertainment establishment employee license for one (1) year from the date revocation becomes effective, provided that, if the conditions of Section 21.1824(B) are met, a Provisional License will be granted pursuant to that Section. If, prior to or subsequent to a revocation based solely on subsection (B)(1) of this section, the Hearing Officer finds that the basis for revocation has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date of the correction or abatement of the defect. If the licensed was revoked under subsections (B)(2), (B)(3), (B)(4), or (B)(5) of this Section, an applicant may not be granted another license until at least one (1) year has elapsed.

SEC 21.1824

**HEARING: DENIAL, REVOCATION, AND
SUSPENSION; APPEAL**

- (A) When the County issues a letter of intent to deny, suspend or revoke a license pursuant to this Chapter, the County shall notify the applicant or licensee (respondent) in writing of the County's intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery, or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the County Sheriff for the respondent. Upon receipt of such notification, the respondent may treat such notification as a denial, suspension, or revocation and immediately seek judicial review in a court of competent jurisdiction as provided in subsection (B). In the alternative, the respondent may first seek administrative review as described in subsections (A)(1)-(3) below.
- (1) Within ten (10) days of the date of such notification, the respondent may provide to the County Sheriff a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended, or revoked.
 - (2) Within five (5) days of the County's receipt of respondent's written response, the County Hearing Officer shall notify respondent in writing of the date of respondent's denial, suspension, or revocation hearing. Within ten (10) days of the receipt of respondent's written response, unless extended to a later date at the respondent's request, the County Hearing Officer shall conduct a hearing at which respondent shall have the opportunity to present evidence and witnesses on his or her behalf, and cross-examine any of the County's witnesses. The hearing shall take no longer than two (2)

days, unless extended at the respondent's request or to meet the requirements of due process and proper administration of justice. The Hearing Officer shall issue a written opinion within five (5) days after the hearing.

- (3) If after a hearing, the County Hearing Officer concludes that grounds as specified in this Ordinance exist for denial, suspension, or revocation of the license, then such denial, suspension, or revocation shall become final five (5) days after the Hearing Officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the County Hearing Officer finds that no grounds exist for denial, suspension, or revocation of a license, then within five (5) days after the hearing, the County Hearing Officer shall immediately withdraw the intent to deny, suspend, or revoke the license and shall notify the respondent in writing by certified mail of such action. The County Hearing Officer shall contemporaneously therewith issue the license to the applicant.

- (B) An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. The County hereby designates the license applications and licenses described in this Chapter to be eligible for expedited judicial review pursuant to California Code of Civil Procedure section 1094.8. Upon the filing of any state or federal court action to appeal, challenge, restrain, or otherwise enjoin the County's enforcement of the denial, suspension, or revocation, the County shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the adult entertainment establishment or to continue employment as an adult entertainment establishment employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the County's enforcement.

SEC. 21.1825. VIOLATION -- PUBLIC NUISANCE AND ABATEMENT, REMOVAL AND/OR ENJOINMENT.

One violation of the provisions listed in section 21.1823(B) 1-5 shall constitute a public nuisance. Two or more violations of any other provisions of this chapter

within a twelve (12) month period shall constitute a public nuisance, and shall be prima facie evidence of the fact that a nuisance has been committed The public nuisance may be abated in accordance with the Uniform Public Nuisance Abatement Procedures contained in Chapter 2 (commencing at Section 1 6.201) of Division 6 of Title 1 of this Code, or County Counsel shall, upon order of the Board of Supervisors, immediately commence necessary proceedings for the abatement, removal and/or enjoinder thereof in the manner provided by law The remedies provided in this section are cumulative and not exclusive of any other remedy, right of action, or proceeding, provided by law

SEC 21.1826 SEVERABILITY

If any provision or clause of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable

Section 2: Sections 16~101 and Section 16~109 of the Code of Regulatory Ordinances are amended as follows:

SEC 16.101. LICENSES AND PERMITS REQUIRED

It shall be unlawful for any person, firm, or corporation to engage in, conduct, manage, or carry on any of the following businesses, practices, professions, or occupations within the unincorporated area of the County of San Diego without first having registered or obtained a license or permit therefore in accordance with the Uniform Licensing Procedure:

- (a) Aircraft Ticket Brokers
- (b) Amusement Establishment and Devices
- (c) Amusement/Go-Cart Centers
- (d) Bathhouses
- (e) Bingo
- (f) Carnivals

- (g) Casino Parties
- (h) Charitable Solicitations
- (i) Coupon Books, Distribution of
Dances and Dance Halls, Adult
- (k) Dances, Teenage
- (l) Entertainment
- (m) Entertainers
- (n) Entertainment Managers
- (o) Explosives
- (p) Firearms, Sale of
- (q) Fireworks
- (r) Fortune Telling
- (s) Holistic Health Practitioners
- (t) Junk, Automotive Wrecking, Non-Operating Vehicle Storage
Yards
- (u) Kennels
- (v) Massage establishment
- (w) Massage technician
- (x) Massage technician trainee
- (y) Off-premises massage
- (z) Outdoor Assemblages
- (aa) Outdoor Assemblage Managers
- (bb) Pawnbroker/Second hand dealers

(cc) Alarm Systems

(dd) Shooting Ranges

(ee) Solicitors

- (1) License
- (2) Identification Card

(ff) Swap Meets and Swap Lots

(gg) Taxicabs - Taxicab Driver

- (1) Operator's License
- (2) Driver's Identification Card

SEC 16.109. GRANTING OR DENIAL OF APPLICATION

The issuing officer shall grant an application for a new license or permit within 30 days after filing of a complete application, unless one or more of the following findings are made:

- (a) The applicant or an agent, employee or manager of the applicant has knowingly or deliberately made any false, misleading or fraudulent statement of material fact in the application or in any report or record required to be filed, or kept under the provisions of the San Diego County Code of Regulatory Ordinances; or
- (b) The business or activity is prohibited by any local or state law, statute, rule, ordinance or regulation, or prohibited in the particular location by any law, statute, ordinance, rule or regulation; or
- (c) The applicant has been convicted of a crime which constitutes a clear and present danger of a serious substantive evil in relation to the business or activity proposed to be licensed. A plea or verdict of guilty, a finding of guilty by a court in a trial without jury, a plea of nolo contendere, or a forfeiture of bail is deemed a conviction; or

- (d) The applicant has violated any of the provisions of this chapter or any provisions of any other ordinance or law to or regulating said business or occupation; or
- (e) Applicant is under 18 years of age.

The findings set forth above in subsections (a), (b), (c) and (d) of this section are not applicable to an application for a new license or renewal of a license pursuant to Chapter 2.18 (commencing at Section 21.280.1) of Division I of Title 2 of this Code, which Chapter 2.8 shall be governed by the findings set forth in Section 21.281.1.

If after investigation the Issuing Officer determines that the application should be denied, the Issuing Officer shall prepare a notice of denial of application setting forth the reasons for such denial of application. Such notice shall be either sent by mail to the applicant's last address provided in the application or be personally delivered. Any person who has had an application for a license or permit denied may request a hearing from the Issuing Officer, except that the Issuing Officer's decision concerning a new license or the renewal of a license pursuant to Chapter 2.8 shall be final and not appealable and shall be subject to prompt judicial review in a court of competent jurisdiction.....

Section 3. Sections 21.103,21.280.4, 21.2806,21.280.7, 21.281.1, 21.281.2, 21.282.3,21.281.6, 21.282.9,21.282.10, 21.283.8,21.283.9, 21.284.2,21.284.3, 21.284.4,21.284.5, 21.284.6,21.284.7, 21.284.8,21.284.9, 21.285.1,21.285.3, 21.285.5,21.825.10, 21,285.22 shall be amended as follows:

SEC. 21.103 LICENSE REQUIRED, DENIAL, SUSPENSION, REVOCATION OF LICENSE

No person shall cause or permit the establishment, operation, enlargement or transfer of ownership or control of any amusement establishment unless a license has been issued. The procedure to follow, except as otherwise herein provided, in obtaining a license is that set forth in the Uniform Licensing Procedure at Chapter 1 (commencing at Section 16.101) of Division 6 of Title I of this Code.

SEC. 21.280.4 ENTERTAINMENT LICENSES - LICENSES REQUIRED.

- (a) No person shall conduct, permit, or assist in the conducting or the permitting of any entertainment as defined in Section 21 .280.1 to be shown, staged, exhibited, or produced in or upon any premises to which the public is admitted unless and until a written Class I Entertainment License has been obtained from the Sheriff.
- (b) No person shall conduct, permit, or assist in conducting or permitting any entertainment regulated under Sections 21.1801, et seq. unless and until an Adult Entertainment License has been obtained from the Sheriff.
- (c) No person shall conduct, permit or assist in conducting or permitting any entertainment as defined in Section 21 .280.3 to be shown, staged, exhibited, or produced in or upon any premises to which the public is admitted unless and until a written Class II Entertainment License has been obtained from the Sheriff.

SEC. 21.280.6 CLASS II ENTERTAINMENT LICENSE FEE.

The annual fee for a Class II Entertainment License shall be set forth in the San Diego County Sheriff's Licensing Fee Ordinance.

SEC. 21.281.1 GRANTING OR DENIAL OF APPLICATION.

Recognizing the potential for First Amendment considerations in the entertainment area, the issuing officer shall grant an application for a new license within 30 days after filing of a complete application unless one or more of the following findings are made:

- (1) The building, structure, equipment, or location of such business or activity does not comply with or fails to meet all of the health, zoning, fire, building, or safety requirements or standards of all the laws of the State of California or ordinances of the County of San Diego applicable to the building, structure, equipment or location of such business operation or activity; or
- (2) The applicant or agent, employee, or manager of the applicant has knowingly or deliberately made any false, misleading, or fraudulent statement of material fact in the application or in any report or record

required to be filed or kept under the provision of the San Diego County code of Regulatory Ordinances.

Findings (1) and (2) set forth above shall apply to an Entertainment License in lieu of findings (a), (b), (c), and (d) set forth in Section 16.109 of the Uniform Licensing Procedure at Chapter 1 (commencing at Section 16.101) of Division 6 of Title I of this Code. Except for said findings, Section 16.109 shall otherwise continue to apply to this chapter. Should the County fail to timely conduct its inspections, and interim license will issue until said inspections are completed.

SEC. 21.281.2 COMPLETENESS OF LICENSE APPLICATION.

An application for an Entertainment License shall not be complete until all required information has been submitted to the Sheriff. An application for an Entertainment License shall be deemed complete upon submittal to the Sheriff unless, the applicant is notified in writing within 10 days that the application is incomplete, which notice shall state with particularity the defects or omissions in the application, in which case the 30 day processing period specified in Section 21.281.1 of this chapter shall not begin to run until the date all requested information has been submitted to the Sheriff.

SEC. 21.1284.9 MANAGER.

All establishments licensed or required to be licensed under this chapter shall have an adult manager on the premises at all times when entertainment is being conducted. Such manager shall be registered with the Sheriff.

No person shall be employed as a manager of an entertainment establishment unless and until such person has appeared in person with the Sheriff and completed the registration form provided by the Sheriff. Any person applying for registration under this section shall specify:

- (a) Name and business or mailing address;
- (b) Driver's license number, if any

SEC. 21.285.1 REGISTRATION OF ENTERTAINERS.

No person shall conduct or participate in any entertainment as defined in Section 21.280.2 unless and until such person has registered in person with the Sheriff and completed the registration form provided by said Sheriff. Any applicant registering under this section shall specify:

- (a) Name and business or mailing address;
- (b) Driver's License Number, if any.

SEC. 21285.3 REGISTRATION REQUIRED BEFORE EMPLOYMENT.

No person shall employ any person to participate in or conduct any entertainment as defined in Section 21.280.2 unless and until such person has registered with the Sheriff as provided in Section 21.285.1 and 21.285.2. The Sheriff's notices of registration shall be maintained by the employer at the place of business, and shall be available for inspection at all times.

SEC. 21.285.22 EXEMPTION

- (a) When an organization which is receiving governmental grant funds to be used for public or community purposes is holding an event of less than 4 days duration for the purpose of raising funds to supplement the governmental grant funds and to support the public or community purpose for which the grant funds were received, such event shall be exempt from the provisions of this chapter.
- (b) The organizer of an event qualifying for exemption under this section shall make available to the Sheriff upon request, a list of all entertainers, vendors and solicitors participating in the event. The list shall contain the following information about each entertainer, vendor, solicitor and their employees:
 - 1. Name;
 - 2. Business name and address;
 - 3. Driver's License Number, if any, and state verified by event organizer.

Section 4 Section 21.1901 of the Code of Regulatory Ordinances is amended as follows:

SEC. 21.1901. FEES

The fee for each license or permit issued by the Sheriff and services provided by the Sheriff to this Code is set forth herewith:

(A) LICENSES AND PERMITS

1. Alarm Systems: The annual fee shall be \$48. No renewal fee.
2. Aircraft Ticket Brokers: The annual fee shall be \$14. The renewal fee shall be \$14/
- 3 Amusement Establishment: The annual fee shall be \$242 plus \$60 per device. The renewal fee shall be \$226 plus \$60 per device fee.
4. Amusement/Go-cart Center-5 Days or Less: The annual fee shall be \$315 plus \$50/day. No renewal fee.
5. Amusement/Go-cart Center-More than 5 Days: The annual fee shall be \$422. The renewal fee shall be \$422.
6. Bath Houses: The annual fee shall be \$957. The renewal fee shall be \$903.
7. Bingo: The annual fee shall be \$44. The renewal fee shall be \$44.
8. Carnivals-5 Days or Less: The annual fee shall be \$451 plus \$100/day. No renewal fee.
9. Carnivals-More than 5 Days: The annual fee shall be \$456. The renewal fee shall be \$456.
10. Casino Party: The annual fee shall be \$138 No renewal fee.
11. Charitable Solicitors/Registration and ID: No. fee.
12. Concealed Weapons License: The annual fee shall be \$44. The renewal fee shall be \$15. Additional fees to the State of California,

Department of Justice and the FBI may also be required for issuance of a concealed weapon license.

13. Coupon Books, Distribution: The annual fee shall be \$240 plus proof of bond. No renewal fee.
14. Dance License, All Classes: The annual fee shall be \$138. The renewal fees shall be class A-\$27; B-\$1 31; C-\$0; D-\$27; Teenage A-\$1 31; Teenage B-\$0.
15. Dance Manager: The annual fee shall be \$78 and renewal fee shall be \$78.
16. Entertainer: The annual fee shall be \$88. The renewal fee shall be \$51; \$17 between renewals. An additional change of workplace fee of \$14 shall be added.
17. Entertainment Class I: The annual fee shall be \$151. The renewal fee shall be \$114.
18. Entertainment Class II: The annual fee shall be \$168. The renewal fee shall be \$131.
19. Entertainment Manager: Annual and renewal fees shall be \$78.
20. Explosives Permits: The annual fee shall be \$132. The renewal fee shall be \$132.
21. Firearms Sales Permits: The annual fee shall be \$209. The renewal fee shall be \$175.
22. Fireworks: The annual fee shall be \$382. No renewal fee.
23. Fortune Telling: The annual fee shall be \$138. The renewal fee shall be \$88.
24. Holistic Health Practitioners: The annual fee shall be \$4. No. renewal fee.
25. Junk, Automotive Wrecking, Non-Operating Vehicle Storage Yards: The annual fee shall be \$334. The renewal fee shall be \$27.

26. Massage Establishment: The annual fee shall be \$368. The renewal fee shall be \$351.
27. Massage Technician and Massage Technician Trainee: The annual fee shall be \$154. The renewal fee shall be \$102.
28. Off-Premises Massage: The annual and renewal fee shall be \$202.
29. Outdoor Assemblage: The fee shall be \$456. No renewal fee.
30. Outdoor Assemblage Manager: The fee shall be \$78. No renewal fee.
31. Pawnbroker/Second Hand Dealer: The annual fee shall be \$209. The renewal fee shall be \$131.
32. Shooting Range: The annual fee shall be \$247. No renewal fee.
33. Solicitor's License: The annual fee shall be \$160. The renewal fee shall be \$137.
34. Solicitor's ID Cards: The annual and renewal fee shall be \$62.
35. Swapmeets/Swaplots: The annual fee shall be \$358 plus \$24 per stall. The renewal fee shall be \$225 plus \$24 per stall.
36. Taxicab Companies (Operator's License): The annual fee shall be \$204; is \$50 per cab if cap is inspected by the County, or \$32 per cab if inspected by another entity. Renewal fee shall be \$154 plus same per cab fees.
37. Taxicab Drivers: The annual fee shall be \$33, Renewal fee shall be \$17.
38. Transportation Tabs/Christmas Trees: The annual fee shall be \$3. No renewal fee.

PASSED, APPROVED AND ADOPTED this 19th day of June, 2002.