

ORDINANCE NO. 9889 (N.S.)

AN ORDINANCE AMENDING TITLES 1 AND 2 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO GENERAL REGULATIONS, ENFORCEMENT PROVISIONS, LICENSING AND BUSINESS TAXES AND AMENDING ARTICLE XXXIII OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO HEARING OFFICERS

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

Section 1. The Board of Supervisors finds and determines that the San Diego County Code of Regulatory Ordinances ("County Regulatory Code") has not undergone a comprehensive revision since its adoption in 1960. Over time, amendments to the County Regulatory Code have been adopted to address specific issues or concerns, but these amendments lacked the uniformity that a comprehensive revision of the Code would provide. This ordinance will revise Titles 1 and 2 of the County Regulatory Code, and Article XXXIII of the County Code of Administrative Ordinances ("County Administrative Code"), beginning the comprehensive revision to the County Regulatory Code and appropriate sections of the County Administrative Code which will update, clarify and streamline these Codes, for the benefit of the citizens of the County of San Diego. This ordinance will clarify general regulations, update enforcement provisions, implement state law changes, add procedures for licensing, update fees to reflect increases in costs of administration and provide new procedures for the selection of hearing officers.

Section 2. Amend Title I of the San Diego County Code of Regulatory Ordinances to read as follows:

DIVISION 1. GENERAL PROVISIONS

CHAPTER 1. SAN DIEGO COUNTY CODE

SEC. 11.101. TITLE -- REFERENCE TO CODE.

This code shall be known as the "San Diego County Code." It shall be sufficient to refer to this code as the "San Diego County Code" in any prosecution for the violation of any provision of the code and it shall also be sufficient to designate any ordinance adding to, amending or repealing the code as an addition or amendment to or repeal of the "San Diego County Code."

SEC. 11.102. AUTHORITY FOR CODE.

This code of ordinances of the County of San Diego is adopted pursuant to Sections 25126, 25127 and 25128 of the Government Code of the State of California.

SEC. 11.103. SCOPE OF CODE -- EFFECT.

This code contains most, but not all, of the regulatory ordinances of the County of San Diego. In addition to this code there is the "Administrative Code" of the County of San Diego (Ordinance No. 1077 (New Series), as amended). The adoption of this code shall not affect the Administrative code or any other ordinance of the County of San Diego not included in this code.

SEC. 11.104. EXISTING LAW CONTINUED.

The provisions of this code, insofar as they are substantially the same as existing ordinance provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

SEC. 11.105. CONSTRUCTION.

The provisions of this code and all proceedings under it shall be construed to give effect to the objectives of this code and to promote justice.

SEC. 11.106. EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS PREVIOUSLY ACCRUED.

The adoption of any provision of this code does not affect any prosecution, civil action or administrative proceeding for any ordinance violation committed prior to the effective date of this code, does not waive any fee, penalty, license or permit requirement due or in effect on the date this code is adopted and does not affect the validity of any bond or cash deposit posted, filed or paid pursuant to the requirements of any ordinance.

SEC. 11.107. RIGHTS UNDER EXISTING LICENSE OR CERTIFICATE NOT AFFECTED.

No rights given by any permit, license or certificate are affected by the adoption of this code, except that any permit, license or certificate renewed after the effective date of any applicable code provision must comply with the code.

SEC. 11.108. REFERENCES TO SPECIFIC ORDINANCES.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are specially designated by number or otherwise and which are included in this code, but the references shall be construed to apply to the corresponding provisions contained within this code.

SEC. 11.109. EFFECT OF HEADING.

Title, division, chapter, article and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, division, chapter, article or section of this code.

SEC. 11.110. SECTION NUMBERS.

In reading section numbers from left to right, the first digit shall designate the title of this code; the second digit shall designate the division of that title. To the right of the second digit is a decimal point. The first digit to the right of the first decimal point designates the chapter of the division provided there are no more than three digits to the right of the first decimal point or no more than three digits between the first decimal point and the second decimal point; e.g., Section 56.101 designates a section in Chapter 1 of Division 6 of Title 5. Where four or more digits follow the first decimal point or four digits are between the first and second decimal points, the first two digits to the right of the first decimal point designate the chapter, e.g., Section 56.10102 designates a section in Chapter 10 of Division 6 of Title 5.

SEC. 11.111. PUBLIC NUISANCE.

Any violation of this code, whether it is an affirmative act, failure to act or failure to comply with any provision of this code is a public nuisance.

SEC. 11.112. SERVICE OF NOTICES.

Whenever notice is required to be given under this code, unless the code or federal or State Law otherwise provide, notice may be given either by personal delivery to the person to be notified or be deposited in the United States mail in a sealed envelope, first class postage prepaid, addressed to the person to be notified at his last known business or residence address as the name appears in the public records or other records pertaining to the matter to which the notice is directed. Service by mail shall be deemed to have been completed at the time the notice is deposited in any regularly maintained United States Postal Service receptacle intended to receive mail.

SEC. 11.113. PROOF OF NOTICES.

Proof of giving any notice required by this code may be made by the certificate of any officer or employee of the County or by affidavit of any person over the age of eighteen years, which shows service in conformity with this code or other provisions of law applicable to the subject matter concerned.

SEC. 11.114. DELEGATION OF POWERS.

Whenever a power is granted to, or a duty is imposed upon any County officer, the power may be exercised or the duty may be performed by a deputy of the officer or a person authorized pursuant to law, unless this code or State law expressly provides otherwise.

SEC. 11.115. VALIDITY OF CODE.

If any section, subsection, sentence, clause, phrase or portion of this code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The Board of Supervisors hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SEC. 11.116. VIOLATIONS --CRIMINAL PENALTIES.

It shall be unlawful for any person to violate any provision or to fail to comply with any requirement of this code. Any person who violates any provision or fails to comply with any requirement of this code shall be guilty of a misdemeanor except where the code or State Law specifically provides the offense is an infraction. The County and any prosecuting agency have discretion to charge any misdemeanor offense as an infraction.

- (a) A conviction for a misdemeanor is punishable by a fine not to exceed \$1,000 or by imprisonment in the County Jail for a period not to exceed six months, or by both fine and imprisonment.
- (b) A conviction for an infraction that violates the County Building Code, Electrical Code, Plumbing Code, Mechanical Code or Fire Code shall be punishable as follows:
 - (1) A fine of not more than \$100 for the first violation;
 - (2) A fine of not more than \$500 for the second violation of the same provision of this code within one year;

(3) A fine of not more than \$1,000 for each violation of the same provision of this code within one year.

(c) A conviction for all other infractions shall be punishable as follows:

(1) A fine of not more than \$100 for a first violation;

(2) A fine of not more than \$200 for a second violation of the same provision of this code within one year;

(3) A fine of not more than \$500 for each additional violation of the same provision of this code within one year.

(d) The penalties for the second and additional violations in paragraphs b. 2 and 3 and c. 2 and 3, above are based upon the dates the violations occur regardless of the dates of conviction. The increased penalties apply even if multiple violations are prosecuted together.

(e) As used in this code "conviction" or "convicted" means a plea of guilty or verdict of guilty or a conviction following a plea of nolo contendere.

SEC. 11.117. VIOLATIONS -- EACH DAY SEPARATE OFFENSE.

Each and every day a violation of this code is committed is a separate and distinct offense.

SEC. 11.118. ACTS INCLUDE CAUSING, AIDING AND ABETTING.

Whenever in this code any act or omission is declared to be unlawful, it shall include causing, allowing, aiding or abetting the act or omission.

SEC. 11.119. TERMINATION OR SUSPENSION OF PORTION OF CODE OR ORDINANCE: EFFECT.

The termination or suspension (by whatsoever means effected) of any provision of this code or any ordinance of the County of San Diego does not constitute a bar to the prosecution and punishment of any act already committed in violation of the provision terminated or suspended, unless the intent to bar such prosecution and punishment is expressly declared by an applicable provision of code or ordinance.

SEC. 11.120. TIME LIMITS FOR JUDICIAL REVIEW.

Judicial review of any decision made by the County or any County commission, board, officer or agent that may be had pursuant to Code of Civil Procedure section 1094.5 shall be subject to the time limits in Code of Civil Procedure section 1094.6. As

used in this section, "decision" means any adjudicatory administrative decision made after hearing, subject to section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking or denying an application for a permit, license or other entitlement, imposing a civil or administrative penalty, fine, charge or cost, or denying an application for any retirement benefit or allowance. In making a final decision the County, County commission, board, officer or agent, shall give notice to the party that the time within which judicial review shall be sought is governed by this section. The notice shall state substantially the following:

"The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure section 1094.6."

SEC. 11.121. VIOLATIONS - CRIMINAL, CIVIL AND ADMINISTRATIVE REMEDIES.

The County may use any or all of the following remedies to address any violation of this code or failure to abide by any requirement of this code:

- (a) Criminal prosecution;
- (b) Civil action for any legal and/or equitable remedy including, but not limited to injunctive relief, declaratory relief, civil penalties, damages, restitution, site restoration and cost recovery;
- (c) Nuisance abatement as provided by this code; and
- (d) Administrative action as provided by this code.

DIVISION 2. DEFINITIONS

CHAPTER 1. DEFINITIONS OF TERMS

SEC. 12.101. OFFICERS, BOARDS, COMMISSIONS AND DEPARTMENTS.

Whenever this code refers to an officer, board, commission, institution, department, office or division, it shall mean an officer, board, commission, institution, department, office or division of the County of San Diego unless otherwise specified.

SEC. 12.102. TENSES.

The present tense includes the past and future tenses; and the future, the present.

SEC. 12.103. GENDER.

The masculine gender includes the feminine and neuter.

SEC. 12.104. NUMBER.

The singular number includes the plural, and the plural the singular.

SEC. 12.105. "SHALL" and "MAY".

"Shall" is mandatory and "may" is permissive.

SEC. 12.106. DEFINITIONS.

The following definitions in sections 12.106.5-12.117 shall apply throughout this code unless another meaning is apparent in the context within which the term is used:

SEC. 12.106.5. BUILDING INSPECTOR.

The words "Building Inspector", "County Building Inspector", "Chief Building Inspector", or "Director of Building Inspection" shall mean "Director of Planning and Land Use".

SEC. 12.107. CHARTER.

The word "Charter" shall mean the Charter of the County of San Diego, State of California, as amended.

SEC. 12.108. CODE.

The words "this code" shall mean the entire San Diego County Code.

SEC. 12.109. CODE -- BUILDING.

The words "County Building Code" shall mean Division 1 of Title 5 of this code.

SEC. 12.110. CODE -- ELECTRICAL.

The words "County Electrical Code" shall mean Division 2 of Title 5 of this code.

SEC. 12.110.5. CODE -- FIRE.

The words "County Fire Code" shall mean Chapter 3 of Division 5 of Title 3 of this code.

SEC. 12.111. CODE -- PLUMBING.

The words "County Plumbing Code" shall mean Division 3 of Title 5 of this code.

SEC. 12.112. CODES -- STATE.

Reference to the "Agricultural Code", "Business and Professions Code", "Elections Code", "Government Code", "Health and Safety Code", "Penal Code", "Streets and Highways Code" and "Vehicle Code" refer to the respective codes of the State of California.

SEC. 12.113. COUNTY.

The word "County" shall mean the County of San Diego.

SEC. 12.113.5. COUNTY ENGINEER.

The words "Road Commissioner", "County Surveyor", "Surveyor", "County Surveyor and Road Commissioner", "County Engineer" and "County Engineer and Road Commissioner of the County of San Diego" shall mean "Director of Public Works of the County of San Diego"; the words "County Road Department", "Road Department", "County Surveyor and Road Department" or "Department of the County Engineer" shall mean "Department of Public Works".

SEC. 12.113.7. DIRECTOR OF PLANNING.

The words "Director of Planning" shall mean "Director of Planning and Land Use".

SEC. 12.113.8. BUILDING INSPECTION.

The words "Building Inspection Department" or "Department of Building Inspection" shall mean "Department of Planning and Land Use".

SEC. 12.114. HEALTH OFFICER AND DIRECTOR OF PUBLIC HEALTH.

The term "Health Officer" and the term "Director of Public Health" shall mean the Health Officer of the County of San Diego appointed pursuant to Section 101000 of the Health and Safety Code of the State of California.

SEC. 12.115. PERSON.

The word "person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, religious group, county (other than the County of San Diego) city and county, city, municipal corporation, district or other political subdivision, or any other group or combination acting as a unit.

SEC. 12.116. ZONING ORDINANCE.

The word "Zoning Ordinance" shall mean Ordinance No. 5281 (New Series) of the County of San Diego, as amended.

SEC. 12.117. MISCELLANEOUS DEFINITIONS.

Whenever in this code the name of a department, office, agency, or officer is mentioned and such department, office, agency or officer has been abolished, reorganized or reconstituted the department, office, agency, or officer shall mean the responsible department, office, agency or officer as provided in the San Diego County Administrative Code.

DIVISION 3. CITATIONS IN LIEU OF ARREST

CHAPTER 1. PROCEDURE

SEC. 13.101. CITATION IN LIEU OF TAKING ARRESTED PERSONS BEFORE MAGISTRATE.

If any person is arrested for a violation of this code or any county ordinance and the person does not demand to be taken before a magistrate, the arresting officer may issue a citation in the manner prescribed in Penal Code sections 853.5 et seq.

SEC. 13.102. AUTHORITY FOR SHERIFF'S LICENSE SPECIALISTS TO ARREST AND ISSUE CITATIONS.

Pursuant to California Penal Code sections 19.7 and 836.5, Sheriff's License Specialists, Class 2735, are hereby authorized to arrest a person without a warrant whenever they have reasonable cause to believe that the person to be arrested has committed an infraction or a misdemeanor in their presence violating provisions of this code which Sheriff's License Specialists have the duty to enforce. When a person arrested under this section does not demand to be taken before a magistrate, the Sheriff's License Specialist making the arrest shall prepare a written notice to appear and release the person on his or her promise to appear, as prescribed by Penal Code sections 853.5 et seq. Penal Code sections 853.5 et seq. apply to any proceeding based upon the issuance of the written notice to appear. No Sheriff's License Specialist shall exercise the power to arrest and issue citations authorized above unless the Specialist has completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officers Standards and Training as established by Section 832(a) of the Penal Code. Sheriff's License Specialists have the duty to enforce the following provisions of this code:

Title 2, Division 1:

- (a) Chapter 3 - Taxicabs and Taxicab Operators;
- (b) Chapter 4 - Casino Parties;
- (c) Chapter 5 - Solicitors;
- (d) Chapter 6 - Junk Yards and Motor Vehicle Wrecking Yards;
- (e) Chapter 7 - Pawnbrokers and Secondhand Dealers;
- (f) Chapter 8 - Outdoor Assemblies;

- (g) Chapter 9 - Amusement Devices;
- (h) Chapter 10 - Permanent Amusement Rides and Go-Cart Centers;
- (i) Chapter 11 - Distribution of Merchandise Coupons;
- (j) Chapter 12 - Firearms Dealers;
- (k) Chapter 13 - Swap Meets;
- (l) Chapter 18 - Adult Entertainment Establishments and Peep Shows;
- (m) Chapter 21- Entertainment Establishments;
- (n) Chapter 22 - Public Dances;
- (o) Chapter 23 - Teenage Dances; and
- (p) Chapter 24 - Carnivals and Circuses.

Title 3, Division 2:

- (q) Chapter 1 - Fireworks;
- (r) Chapter 6 - Fortune Telling.

Title 3, Division 5:

- (s) Chapter 1 - Explosive Storage Magazine Alarms.

Title 3, Division 7:

- (t) Chapter 4 - Bingo.

Title 3, Division 10:

- (u) Chapter 1 - Security Alarm Systems.

Title 6, Division 6:

- (v) Chapter 5 - Massage Establishments; and
- (w) Chapter 6 - Bathhouses.

DIVISION 4. [RESERVED]

**DIVISION 5. APPLICATIONS FOR REASSESSMENT DUE TO MISFORTUNE,
CALAMITY OR NATURAL DISASTER**

CHAPTER 1. AUTHORITY AND PROCEDURE

SEC. 15.101. AUTHORITY.

This chapter is adopted pursuant to California Revenue and Taxation Code Section 170 referred to as Rev. & Tax C. section 170.

SEC. 15.102. APPLICATION PROCESS FOR REASSESSMENT.

(a) Every assessee of any taxable property, or any person liable for the taxes on the property, whose property was damaged or destroyed without his or her fault as the result of a misfortune or calamity as defined in Rev. & Tax C. sections 170(a)(1), 170(a)(2) and 170(a)(3) may apply for reassessment of that property. The application for reassessment shall comply with the following requirements:

(1) The application shall be filed within 12 months of the misfortune or calamity, by delivering to the assessor a written application requesting reassessment and showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage.

(2) The application shall be executed under penalty of perjury, or if executed outside of the State of California, verified by affidavit.

(b) Upon receiving a proper application, the assessor shall proceed as provided in Rev. & Tax C. section 170(b) and (c).

(c) If no application is made and the assessor determines that within the preceding 12 months a property has suffered damage caused by misfortune or calamity that may qualify the property owner for relief under this code, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 12 months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application the assessor shall proceed as in paragraph (b) above.

DIVISION 6. APPEALS AND NUISANCE ABATEMENT

CHAPTER 1. APPELLATE HEARING BOARD

SEC. 16.101. ESTABLISHMENT OF APPELLATE HEARING BOARD.

This chapter establishes an Appellate Hearing Board to hear appeals from designated decisions by County departments. This chapter only applies when this code authorizes an appeal to the Appellate Hearing Board.

SEC. 16.102. DEFINITIONS.

(a) The "Appellate Hearing Board" shall be a County hearing officer appointed pursuant to sections 650 et seq. of the County Administrative Code.

(b) An "appellate hearing officer" shall be a County hearing officer assigned to hear an appeal under this chapter.

SEC. 16.103. SCHEDULING OF HEARINGS.

The Clerk of the Board of Supervisors shall, after receiving notice of an appeal, promptly assign the matter to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers. The hearing officer shall schedule the hearing within 30 days of being assigned to hear a matter and send the County department whose decision is being appealed and the appellant notice of the hearing at least 21 days before the hearing, which states:

- (a) The date, time and location of the hearing,
- (b) The hearing will not be continued except for good cause,
- (c) The appellant may present evidence and witnesses at the hearing,
- (d) The appellant may be represented by counsel, at appellant's expense,
- (e) All requests for witness subpoenas must be submitted to the hearing officer 14 days before the hearing,
- (f) If the appellant does not appear at the hearing and complete the hearing the appeal will be denied and the decision by the County department will be upheld.

SEC. 16.104. HEARING OFFICER AUTHORITY.

(a) The hearing officer is authorized to issue subpoenas and conduct the hearing, including administering oaths, rule on the admissibility of evidence and other legal issues that might occur at the hearing.

(b) The hearing officer does not have the authority to determine that any section of this code or any other County Ordinance is void, vague, unconstitutional, unenforceable or preempted by State Law unless an appellate court has previously made that determination.

(c) The hearing officer shall determine whether the County department's decision should be sustained, modified or overruled.

SEC. 16.105. CONDUCT OF THE HEARING.

(a) Every witness before testifying shall take an oath or make an affirmation.

(b) The County department whose decision is being appealed shall present evidence that explains why the license or permit appellant applied for was denied or why appellant's existing license or permit should be suspended or revoked.

(c) The appellant shall present evidence that supports his contention the County department's determination to deny the license or permit or to suspend or revoke the license or permit is erroneous.

(d) Each party shall have the right to: call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues, impeach any witness regardless of which party first called the witness to testify and rebut the evidence against the party. The County department may call and examine the appellant or any employee or agent of the appellant as a witness during the department's case in chief or during the department's rebuttal case. The hearing officer may examine the appellant or any of the appellant's employees or agents as if under cross-examination.

(e) Strict rules of evidence shall not apply. Evidence that might otherwise be excluded under the Evidence Code may be admissible if the hearing officer determines that it is relevant and of the kind that reasonably prudent persons rely on in making decisions. All rules of privilege recognized by the Evidence Code, however, apply to the hearing. The hearing officer shall also exclude irrelevant and cumulative evidence.

(f) The hearing shall be conducted in English. If the appellant or any of appellant's witnesses require an interpreter the appellant is responsible to provide a State certified interpreter at appellant's expense.

SEC. 16.106. HEARING OFFICER'S DECISION.

- (a) The hearing officer shall issue a written decision within five days after the hearing.
- (b) The hearing officer may uphold, overturn or modify the decision appealed from.
- (c) The decision shall specify the hearing officer's findings of facts and reasons for the decision.
- (d) The hearing officer shall file the decision with the Chief Administrative Officer, who shall be responsible to provide it to the County department involved and serve it on the appellant pursuant to section 11.112.
- (e) The hearing officer's decision shall be final 10 days after it is served on the appellant.

CHAPTER 2. NUISANCE ABATEMENT

SEC. 16.201. NUISANCE ABATEMENT PROCEDURE.

This chapter shall be known and cited as the "Public Nuisance Abatement Procedure." It is enacted pursuant to Government Code Section 25845 and is intended to establish an administrative procedure for the abatement of a public nuisance resulting from a violation of any statute, regulation or ordinance the County enforces.

SEC. 16.202. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) The "County Abatement Officer" means the County officer responsible for enforcement of the County ordinances being violated and who declares a violation to be a public nuisance.
- (b) The "Clerk" means the Clerk of the Board of Supervisors.
- (c) "Hearing officer" means a County Hearing Officer appointed pursuant to County Administrative Code sections 650 et seq.

SEC. 16.202. 5 ADMINISTRATIVE PROCEDURES.

- (a) Whenever this code or any other law the County enforces provides that violation of that law is a public nuisance, this chapter authorizes a County Abatement Officer to

institute an administrative proceeding to abate the nuisance. The County's right to institute an administrative proceeding under this chapter is in addition to all other legal remedies the County has and does not limit the County's ability to avail itself of any other legal remedy. This chapter also does not limit the County's ability to summarily abate a public nuisance when necessary.

(b) Any time this chapter provides for a hearing, the hearing shall be held before a County Hearing Officer appointed pursuant to sections 650 et seq. of the County Administrative Code. The Clerk of the Board of Supervisors shall assign the matter to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers.

SEC. 16.203. SUMMARY ABATEMENT POWER.

(a) Notwithstanding the administrative procedures for abating a nuisance pursuant to this chapter, a County Abatement Officer may summarily abate a public nuisance if the officer determines the nuisance constitutes an immediate threat to public health and safety. If immediate action becomes necessary a County Abatement Officer may summarily abate a public nuisance even though the officer initiated an administrative proceeding under this chapter.

(b) If a County Abatement Officer summarily abates a public nuisance he may keep an account of the cost of abatement, including the County's administrative costs, and bill the property owner. If the bill is not paid within 15 days from the date the County mails the bill, the Abatement Officer may proceed as provided under sections 16.213 through 16.217 to obtain a special assessment and lien against the property. In cases of summary abatement, however, at the hearing to confirm the abatement costs under section 16.214, the hearing officer shall also determine whether a public nuisance existed.

SEC. 16.204. INITIATING AN ADMINISTRATIVE ABATEMENT.

To initiate an administrative abatement under this chapter the County Abatement Officer shall declare a public nuisance and issue a Notice and Order to Abate in substantially the following form:

NOTICE AND ORDER TO ABATE

NOTICE IS HEREBY GIVEN THAT (specify the condition constituting the nuisance) violates Section () of the (San Diego County Code, the Zoning Ordinance or other applicable code or ordinance). The violation has been declared a public nuisance by the (County Abatement Officer) and must be abated immediately. The public nuisance is on property located at (insert address or other legal property description).

YOU ARE HEREBY ORDERED TO ABATE THE PUBLIC NUISANCE within (insert a reasonable number of days) () consecutive days from the issuance of this order. The issuance date is specified below. You may abate the nuisance by (insert desired action which, if taken, will adequately remedy the situation). If you fail to abate the public nuisance within the number of days specified, the County may order its abatement by public employees, private contractor, or other means, and the cost of the abatement may be levied and assessed against the property as a special assessment lien or billed directly to the property owner.

YOU MAY APPEAL FROM THIS ORDER OF ABATEMENT but only if you file the appeal before the expiration of the number of days specified above for completing the abatement. The appeal must be in writing, specify the reasons for the appeal, contain your name, address and telephone number, be accompanied by an appeal fee of _____ dollars (\$____) and be submitted to the Clerk of Board of Supervisors at the following address:

Clerk of the Board of Supervisors

County of San Diego

1600 Pacific Highway, Room 402

San Diego, California 92101

Tel. No. (619) 531-5600

ATTN: Chief Deputy Clerk

One who is legally indigent may obtain a waiver of the appeal fee. Upon timely receipt of the appeal and accompanying fee, or waiver, the matter will be set for hearing before a County Abatement Board and notify you of the date and location of the hearing.

If you have any questions regarding this matter, you may direct them to the County Abatement Officer issuing this notice at the address or telephone number listed below.

ISSUANCE DATE: _____

(Name, title, address and telephone number of the County Abatement Officer issuing this notice)

SEC. 16.205. SERVICE OF NOTICE AND ORDER TO ABATE.

The Notice and Order to Abate shall be served as follows:

(a) By U.S. mail, addressed to the owner or the owner's agent, at the address shown on the current assessment roll and addressed to any other person the County Abatement Officer knows to be in possession, of the property, at the street address of the property where the nuisance exists, and,

(b) By posting the Notice and Order to Abate conspicuously in front of the property on which, or in front of which, the nuisance exists, or if the property has no frontage, at a conspicuous location on a roadway closest to the property most likely to give actual notice to the owner and a person in possession of the property.

SEC. 16.206. RECORDING NOTICE OF PROCEEDINGS.

Following service of a Notice and Order to Abate, as specified in Section 16.205, the County Abatement Officer may cause a notice of the initiation of public nuisance abatement proceedings to be recorded in the Office of the County Recorder, which reads substantially as follows:

NOTICE OF INITIATION OF PUBLIC NUISANCE ABATEMENT PROCEEDINGS

Notice is hereby given that proceedings have been initiated by the County of San Diego under the Public Nuisance Abatement Procedure found at San Diego County Code sections 16.201 et seq. concerning property at (Address). The property is located within San Diego County Assessor's Parcel No. _____.

For information concerning the Public Nuisance Abatement proceedings and how they may impact the property, please contact the Department of Planning and Land Use, County of San Diego, 5201 Ruffin Road Suite #B, San Diego, CA 92123.

The County Abatement Officer shall cause any recorded notice of the initiation of public nuisance abatement proceedings to be removed when the public nuisance abatement proceedings, including any appeals of the Notice and Order To Abate and any work necessary to abate the nuisance have been completed. If work to abate the nuisance is performed at County expense the notice of the initiation of public nuisance abatement proceedings need not be removed until those costs have been paid or a lien for those costs has been recorded.

SEC. 16.207. APPEAL PROCEDURE.

An owner or other person in possession of the property may appeal an abatement proceeding commenced pursuant to this chapter within the number of days allowed in the Notice and Order to Abate. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, contain the name, address and telephone number of the appellant, be accompanied by the payment of an appeal fee and be filed with the Clerk.

Timely appeal shall stay any further abatement action until the hearing is concluded. The Clerk shall set the matter for hearing, assign the appeal to a hearing officer and provide at least 10 days notice to the parties in writing of the date and location of the hearing.

SEC. 16.208. APPEAL FEE: DETERMINATION OF AMOUNT/WAIVER OF PAYMENT/REFUND.

The amount of the appeal fee shall be determined periodically by the Board of Supervisors based upon the County's costs incurred in processing an appeal pursuant to this chapter. The calculation shall include all costs of the County Abatement Officer, Clerk, and the hearing officer, but shall exclude actual costs for any work of abatement calculated pursuant to Section 16.212.

If the appellant claims an economic hardship in paying the appeal fee, the appellant may apply for a waiver of the appeal fee on forms provided by the Clerk for that purpose. The forms shall be substantially similar to those required of litigants initiating court proceedings in forma pauperis pursuant to Government Code section 68511.3. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. If the Clerk is satisfied from the information contained in the forms that an appellant qualifies for a waiver under this section the Clerk shall allow the appeal to go forward without payment of the fee.

Upon filing a timely appeal and for good cause shown, the Clerk may grant the appellant a period of time beyond expiration of the appeal period in which to complete and submit the waiver forms. In no event shall the additional time exceed two days.

Failure to submit the waiver forms or pay the appeal fee in a timely manner shall cause the appeal request to be automatically denied. Enforcement of the order to abate may then proceed as if no appeal request had been submitted.

If the appeal fee is paid and the hearing officer finds there is no public nuisance, the appeal fee shall be refunded to the appellant without interest.

SEC. 16.209. HEARING PROCEDURE.

Hearings under this chapter shall be conducted as follows:

(a) Every witness before testifying shall take an oath or make an affirmation. The hearing officer is authorized to issue subpoenas, administer oaths and conduct the hearing.

(b) Each party shall have the right to: be represented by legal counsel, call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter

relevant to the issues even though the matter was not covered in the direct examination and impeach any witness regardless of which party first called the witness to testify. The County may call and examine the appellant or any employee or agent of the appellant as a witness during the County's case in chief or during the County's rebuttal case as if under cross-examination.

(c) Strict rules of evidence shall not apply. Evidence that might otherwise be excluded under the Evidence Code may be admissible if the hearing officer determines that it is relevant and of the kind that reasonably prudent persons rely on in making decisions. All rules of privilege recognized by the Evidence Code, however, apply to the hearing. The hearing officer shall also exclude irrelevant and cumulative evidence.

(d) The hearing shall be conducted in English. If the appellant or any of appellant's witnesses require an interpreter the appellant is responsible to provide a State certified interpreter at appellant's expense.

(e) The hearing may be continued upon request of a party to the hearing upon a showing of good cause.

SEC. 16.210. HEARING OFFICER'S DETERMINATION.

At the conclusion of an appeal hearing, the hearing officer shall make written findings of fact and conclusions of law. The hearing officer's decision shall uphold or overrule, in whole or in part, the County Abatement Officer's determination that a public nuisance exists. The decision shall be filed with the Clerk within seven days of the conclusion of the hearing. A copy of the decision shall be sent by mail to appellant and any other party who appeared at the hearing. The decision of the hearing officer shall be final when filed with the Clerk.

SEC. 16.211. TIME FOR COMPLIANCE.

If the hearing officer decides that the Order to Abate shall be enforced, the owner, or the owner's agent or any person in possession of the property shall comply with the order within the time prescribed by the hearing officer and in the absence of any prescribed time, within 30 days after the hearing officer's decision becomes final.

SEC. 16.212. NONCOMPLIANCE WITH ORDER TO ABATE.

(a) If no one complies with the Order to Abate within the prescribed time period, the County Abatement Officer may abate the public nuisance. The County may remove or destroy any property listed in the Order to Abate necessary to abate the nuisance. The County shall keep a separate account of the cost of abatement for each assessor's parcel involved in the abatement.

(b) When the County has completed the work of abatement, or has paid for the work, it shall bill the property owner for the actual cost of abating the nuisance, and the County's administrative costs, including reasonable attorney's fees. If the County waived the appeal fee pursuant to section 16.208 the fee shall be added to the abatement cost. If unpaid, the combined amounts shall be included in a bill and mailed to the owner or the owner's agent for payment. The bill shall state that if the bill is not paid 15 days from the date of mailing the County may impose a lien on the property.

SEC. 16.213. REPORT AND NOTICE OF HEARING.

If the County's bill for the abatement costs is not paid within 15 days from the date of mailing the County Abatement Officer shall submit an itemized written cost report to the Clerk for a confirmation hearing before a hearing officer. The Clerk shall attach to the report the names and addresses of all persons having any record interest in the property. At least 10 days before the hearing, the Clerk shall give notice of a confirmation hearing, by mail, to the record owner of each assessor's parcel involved in the abatement, the holder of any mortgage or deed of trust of record, and any other person known to have a legal interest in the property. The notice shall describe the property by street number or some other description sufficient to identify the property and contain a statement of the amount of the proposed assessment.

SEC. 16.214. CONFIRMATION HEARING.

At the hearing on the County Abatement Officer's cost report, the hearing officer shall review the evidence and the objections to the abatement costs from the owner and any other person who may have a legal interest in the property. The hearing officer shall determine the amount of the County's abatement costs that are reasonable and shall add an amount equal to the cost of conducting the confirmation hearing. The hearing officer may modify the report as the hearing officer deems necessary, after which, by resolution, the report shall be confirmed. The resolution and modified report shall be filed with the Clerk. The resolution and modified report of the hearing officer shall be final and may not be appealed.

SEC. 16.215. COST AS SPECIAL ASSESSMENT AND LIEN.

A certified copy of the resolution shall be recorded by the Clerk in the Office of the County Recorder. The amounts and the costs of abatement mentioned in the report as confirmed shall constitute a special assessment against the property and are a lien on the property for the amount of the respective assessment. In addition to its rights to impose the special assessment, the County shall retain the right to recover its costs in a civil action against the owner and any other person responsible for the abatement costs.

SEC. 16.216. TRANSMITTAL OF REPORT TO AUDITOR -- INCLUSION IN TAX BILL.

A copy of the confirmed report shall be turned over to the County Auditor on or before August 10 of each year, following the confirmation. The Auditor shall enter the amount of a special assessment imposed under this chapter against any parcels of land to which the assessment applies, listed on the current assessment roll. The Tax Collector shall include the amount of the assessment on bills for taxes levied against the respective parcels of land.

SEC. 16.217. MANNER OF COLLECTION -- LAW APPLICABLE.

A special assessment imposed under this chapter shall be collected at the same time and in the same manner as County taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes are applicable to a special assessment for the cost of abating a nuisance.

SEC. 16.218. VIOLATIONS.

(a) It shall be unlawful for any person to interfere with a County Abatement Officer or the officer's designee performing any act authorized under this chapter. It shall also be unlawful to refuse to allow any person authorized under this chapter to enter on property to abate a nuisance or to interfere with any authorized person performing abatement work.

(b) Paying a fine or serving a jail sentence shall not relieve any person of the responsibility to correct any violation of a code being enforced pursuant to this chapter or to pay the costs the County incurred to abate the nuisance.

DIVISION 7. [RESERVED.]

DIVISION 8. ADMINISTRATIVE REMEDIES

CHAPTER 1. ADMINISTRATIVE CITATIONS

SEC. 18.101. APPLICABILITY.

(a) This chapter provides for administrative citations and fines which are in addition to all other legal remedies, which the County may pursue to address any violation of this code, the San Diego County Zoning Ordinance, or any other County ordinance.

(b) The use of this chapter shall be at the County's sole discretion.

(c) County staff may prepare a procedures manual which provides additional guidance for implementing the administrative citation program consistent with the provisions of this chapter.

SEC. 18.102. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Director" means the Director of any County department or his designated representative responsible to enforce County codes and ordinances.

(b) "Enforcement officer" means the Director of a County department or any County employee or agent of the County with the authority to enforce any provision of this code or County ordinance.

(c) "Hearing officer" means the person who presides over an administrative hearing provided for in this chapter.

SEC. 18.103. WARNING OF AN ADMINISTRATIVE CITATION.

Whenever an enforcement officer charged with the enforcement of this code or any County ordinance determines that a violation has occurred, the enforcement officer may issue a warning of an administrative citation to any person responsible for the violation. A warning shall be served as a prerequisite to the issuance of a first administrative citation. The warning shall identify the code or ordinance section violated, provide a description of the violation and how it can be corrected. The warning shall specify a time and date by which the violation shall be corrected, after which an administrative citation may be issued if the violation is not fully corrected. The enforcement officer shall provide for a reasonable period of time to correct the violation after considering the circumstances of the case, except that at least 24 hours shall be allowed from the time and date of the warning for the violation to be corrected. A warning shall not be required

before issuing a second or any subsequent administrative citation for a continuing or repeated violation.

SEC. 18.104. ADMINISTRATIVE CITATION.

(a) Whenever an enforcement officer determines that a violation of the code or ordinance has occurred, the enforcement officer may issue an administrative citation to any person responsible for the violation provided that any warning required by section 18.103 has first been issued. Each and every day during a portion of which a violation of a Code is committed, continued or permitted is a separate and distinct violation for which an administrative citation may be issued.

(b) Each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The code or ordinance section violated and a description of the violation;
- (4) A description of how the violation can be corrected;
- (5) The amount of the fine for the violation;
- (6) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- (7) An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
- (8) A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a request for hearing form; and
- (9) The name and signature of the citing enforcement officer.

SEC. 18.105. SERVICE OF WARNING OR ADMINISTRATIVE CITATION.

Service of a warning or an administrative citation may be accomplished by any of the following methods:

(a) Personal Service. The enforcement officer, or an authorized designee, may obtain the signature of the person responsible for the violation on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(b) By mail as provided in San Diego County Code section 11.112.

(c) Posting. If service cannot be completed as specified in sections 18.105 (a) or (b) above, or as an additional method of notice at the discretion of the County, the

administrative citation may be posted in a conspicuous place on or near the property on which the violation is located. Failure of a posted notice to remain in place after posting shall in no way affect the validity of the citation and subsequent proceedings.

SEC. 18.106. AMOUNT OF FINES.

(a) The fine for a violation imposed pursuant to this chapter shall be \$100 for the first citation, \$200 for the second citation, \$500 for the third citation and \$1,000 the fourth or subsequent citation issued for a repeat violation of the same ordinance provision by the same person within one year from the date of an administrative citation. The maximum fine for a fourth or subsequent citation, however, shall be \$500 in cases where the applicable code or ordinance only authorizes the violation to be charged as an infraction. The fine amounts shall be cumulative where multiple citations are issued, however, the maximum amount of accumulated fines, excluding any late payment charges or other costs, shall not exceed \$10,000 per parcel or structure for any related series of violations.

(b) A late payment charge shall be paid to the County in the amount specified in section 18.113 if a fine has not been paid in full to the County on the date on which it is due.

SEC. 18.107. PAYMENT OF THE FINE.

(a) The fine shall be paid to the County within 30 days from the date of the administrative citation in accordance with the payment instructions printed on the citation form.

(b) Any administrative citation fine paid pursuant to section 18.107(a) shall be refunded in accordance with section 18.112 if it is determined, after a hearing that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(c) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.

SEC. 18.108. REQUEST FOR HEARING.

(a) Any person receiving an administrative citation may contest that there was a violation or that he or she is the responsible party by completing a request for hearing form and returning it to the County department issuing the citation, within 14 days from the date of the citation, together with an advance deposit of the full amount of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to section 18.109. The failure of any person to properly file a request for hearing within the

time specified in this section shall constitute a waiver of the right to an administrative hearing and adjudication of the administrative citation or fine or any portion of the fine.

(b) A request for hearing form may be obtained from the County department issuing the citation. Any person requesting a hearing may provide the County with a mailing address to which any notice required under section 18.116 may be served.

(c) A hearing before the hearing officer shall be set for the earliest practicable date after a request for hearing has been properly filed in accordance with this chapter.

(d) The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing.

(e) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall also be served on the person requesting the hearing at least seven days prior to the date of the hearing.

SEC. 18.109. ADVANCE DEPOSIT HARDSHIP WAIVER.

(a) Any person who intends to request a hearing to contest that there was a violation of a Code or that he is the responsible party and who is financially unable to make the advance deposit of the fine as required in section 18.108 may file a request for an advance deposit hardship waiver.

(b) The request shall be filed with the Director of the County department issuing the administrative citation on an advance deposit hardship waiver application form, available from the County department, within 14 days of the date of the administrative citation.

(c) The requirement of depositing the full amount of the fine as described in section 18.108 shall be stayed unless or until the Director makes a determination not to issue the advance deposit hardship waiver.

(d) The Director may waive the requirement of an advance deposit set forth in section 18.108 and issue the advance deposit hardship waiver only if the person receiving the administrative citation submits to the Director a declaration under penalty of perjury, together with any supporting documents or materials, demonstrating to the satisfaction of the Director the person's financial inability to deposit with the County the full amount of the fine in advance of the hearing.

(e) If the Director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the County within 10 days of the date of that decision or 30 days from the date of the administrative citation, whichever is later.

(f) The Director shall issue a written decision listing the reasons the determination to issue or not issue the advance deposit hardship waiver. The Director's written decision shall be final.

(g) The Director's written decision shall be served upon the person who applied for the advance deposit hardship waiver.

SEC. 18.110. HEARING OFFICER.

The Director shall appoint an independent hearing officer to preside over an administrative citation hearing which has been properly requested under the provisions of this chapter.

SEC. 18.111. HEARING PROCEDURE.

(a) No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with section 18.108 or an advance deposit hardship waiver has been issued in accordance with section 18.109.

(b) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

(c) The failure of any person receiving an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust administrative remedies.

(d) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The enforcement officer may, but shall not be required to, appear at an administrative citation hearing.

(e) The hearing officer may continue the hearing and request additional information from the enforcement officer or the person receiving the administrative citation prior to issuing a written decision.

SEC. 18.112. HEARING OFFICER'S DECISION.

(a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall state the reasons for that decision. The hearing officer's decision shall be final.

(b) If the hearing officer determines that the administrative citation should be upheld the fine amount on deposit with the County shall be retained by the County.

(c) If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall state in the decision a due date for payment of the fine.

(d) If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the County the County shall promptly refund the amount of the deposited fine.

(e) The person receiving the administrative citation shall be served with a copy of the hearing officer's written decision.

SEC. 18.113. LATE PAYMENT CHARGES.

Any person who fails to pay to the County any fine imposed pursuant to the provisions of this Chapter on or before the date that fine is due shall also be liable for the payment of a late payment charge in the amount of 50% of the total fine amount owed.

SEC. 18.114. RECOVERY OF ADMINISTRATIVE CITATION FINES, LATE PAYMENT CHARGES, AND COLLECTION COSTS.

The County may collect any past due administrative citation fine or late payment charge, and may also recover its collection costs, by use of all available legal means. The failure of any person to pay a fine assessed by an administrative citation, or a late payment charge or collection costs related to an administrative citation, by the due date shall constitute a debt to the County. The County may seek payment of the debt by use of all available legal means, including but not limited to the following:

(a) The County may refer the debt to the Auditor and Controller for collection.

(b) The County may file a civil action to recover the debt.

(c) The County may impose a code enforcement lien upon the real property upon which the violation is located. The lien shall continue until all fines, late payment charges, and other costs owed are fully paid. Any lien imposed pursuant to this chapter shall attach upon the recordation of a notice of code enforcement lien in the Office of the County Recorder.

SEC. 18.115. RIGHT TO JUDICIAL REVIEW.

Any person aggrieved by the administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing an appeal to the San Diego County Superior Court in accordance with the timelines and provisions set forth in California Government Code section 53069.4.

SEC. 18.116. SERVICE.

Except as otherwise specified in section 18.105, all decisions or notices required to be served by this chapter shall be as provided in section 11.112.

CHAPTER 2. ADMINISTRATIVE CIVIL PENALTIES

SEC. 18.201. AUTHORIZATION AND PURPOSE.

This chapter provides a procedure by which County enforcement officials may assess administrative civil penalties as an alternative enforcement method for any violation of this code, the San Diego County Zoning Ordinance, any other County ordinance and any State law that County officials enforce. The remedies in this chapter are in addition to all other remedies the County may pursue and only govern enforcement actions brought pursuant to this chapter. Nothing in this chapter limits the ability of any enforcement official to seek the maximum civil penalties allowed when following any other enforcement procedure or in any civil action.

SEC. 18.202. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Director" means the Director of any County department or a Director's designated representative, responsible to enforce County codes, County ordinances or State codes.

(b) "Enforcement officer" means any County employee with enforcement authority for County codes, County ordinances or State codes.

(c) "Hearing officer" means a person who presides over an administrative civil penalties hearing.

(d) "Responsible person" means a "person," as defined in Section 12.115 of this code, responsible for a violation prosecuted under this chapter.

SEC. 18.203. CIVIL PENALTIES.

A Director may assess civil penalties against a responsible person pursuant to the administrative procedures in this chapter as follows:

(a) At a daily rate the Director determines pursuant to the criteria in Section 18.205.

(b) For County code or ordinance violations, up to \$1,000 per day per violation against each responsible person, but no more than \$50,000 in civil penalties for any one violation against a responsible person in any 12 month period.

(c) For State code violations, up to \$2,500 per day per violation against each responsible person, but no more than \$125,000 in civil penalties for any one violation against a responsible person in any 12 month period.

(d) When more than one person is responsible for a violation each responsible person may be separately assessed. A person may be found responsible for different violations, or repeat violations, which are subject to separate cumulative maximums.

SEC. 18.204. NOTICE AND ORDER PROCEDURES.

(a) Whenever a Director determines that a violation the Director has authority to enforce has occurred or is occurring the Director may assess civil penalties pursuant to a written Notice and Order to any responsible person. When violations involve more than one department a Director may delegate enforcement authority to another Director.

(b) The Notice and Order issued by a Director shall state:

- (1) The name of the person against whom the civil penalty is assessed;
- (2) A description of the violation and all sections of the code or ordinance violated that are being charged;
- (3) The date and location of each violation;
- (4) A daily civil penalty assessment and the factors in section 18.205 the Director considered in determining the amount;
- (5) The beginning and ending date for the civil penalty assessment, unless the violation is continuing as of the date of the Notice. In the case of a continuing violation the Director may assess penalties up to the day the Notice is issued and/or assess continuing penalties at the daily rate established in the Notice until the violation is corrected;
- (6) Where a Director determines any violation is continuing, the responsible person is ordered to immediately cease violating the applicable law and commence and complete all action necessary to correct any outstanding violation under the guidance of the enforcement department;
- (7) The process for payment of civil penalties is as provided in section 18.207;
- (8) The person charged has the right to request a hearing to contest the Notice and Order as provided in section 18.208;
- (9) If the person charged fails to request a hearing within 14 days of the date on the Notice and Order the person waives all administrative remedies and the person loses the right to contest (A) whether any violation occurred, (B) whether the person charged is

responsible for any violation charged, (C) the dates of any violation, including whether any violation is continuing and (D) whether the amount assessed is reasonable.

(c) More than one Notice and Order may be issued against the same responsible person if the notice encompasses different dates and/or different violations.

SEC. 18.205. DETERMINATION OF CIVIL PENALTIES.

(a) In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered a violation had occurred, as evidenced by any writing issued or sent to a responsible person.

(b) The assessment of civil penalties shall end when all action required by the Notice and Order has been completed to the satisfaction of a Director.

(c) In determining the amount of the daily rate at which a civil penalty is assessed a Director may consider some or all of the following factors:

- (1) The duration of the violation.
- (2) The frequency or recurrence of the violation.
- (3) The nature and seriousness of the violation.
- (4) The impact of the violation on environmentally sensitive land or habitat or historical resources.
- (5) The responsible person's conduct after being notified of the violation.
- (6) The good faith effort by the responsible person to comply.
- (7) The economic impact of the penalty on the responsible person.
- (8) Any financial gain incurred by the responsible person as a result of the violation.
- (9) The violation's impact on the community.
- (10) Any other factors that justice may require.

SEC. 18.206. METHODS OF SERVICE.

The Notice and Order shall be served on the responsible person as provided by section 11.112 of this code. If for any reason service cannot be completed as provided in section 11.112, service may be accomplished by posting a copy of the notice in a conspicuous place on or near the property on which the violation is located. At the discretion of the Director, the notice may be posted in addition to personal or mail service.

SEC. 18.207. PAYMENT OF CIVIL PENALTIES.

(a) Civil penalties assessed shall be paid in full within 45 days from the date the Notice and Order is served unless the person served with the Notice and Order files a timely request for a hearing under section 18.208.

(b) In the case of a continuing violation, the person charged shall pay any amount assessed in the Notice and Order within 45 days from the date the Notice and Order was served. If a Director assesses continuing penalties as provided in section 18.204(b)(5) the person charged with a continuing violation shall be responsible to pay accrued penalties within 45 days from the date of notice from a Director that payment of an additional amount is due.

(c) Civil penalties paid to the County before a hearing under section 18.208 shall be refunded in full or in part if a hearing officer determines:

- (1) A violation enforceable under this chapter did not occur or did not occur on some or all of dates charged, or
- (2) The person charged was not responsible for a violation, or
- (3) The amount of the civil penalties shall be reduced.

SEC. 18.208. HEARING TO CONTEST NOTICE AND ORDER AND WAIVER

(a) A person may request a hearing to contest a Notice and Order by completing a Request For Hearing form at the office of the department that issued the Notice within 14 days after the Notice was served. Failure to timely request a hearing constitutes a waiver of the right to contest the Notice and the issues in paragraph (b) below.

(b) If the person charged as a responsible person in the Notice requests a hearing the person may contest any or all of the following issues:

- (1) Whether a violation enforceable under this chapter occurred,
- (2) Whether the person charged is responsible for the violation,
- (3) The dates when the violation occurred, including whether the violation is continuing,
- (4) Whether the amount assessed for the violation is reasonable.

(c) Within seven days after a County Department receives a timely request for a hearing it shall ask the Clerk of the Board of Supervisors to schedule a hearing before a County hearing officer appointed pursuant to sections 650 et seq. of the County Administrative Code.

(d) The Clerk shall assign the matter to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers.

(e) The Director shall serve the notice of hearing as provided by section 18.206.

SEC. 18.209. HEARING PROCEDURES.

The following procedures shall apply to hearings conducted under this chapter:

(a) The hearings shall be conducted in accordance with the procedures promulgated by the Chief Administrative Officer.

(b) The County bears the burden of proof at all civil penalties hearings. The standard of proof at a hearing is the preponderance of the evidence.

(c) The hearing officer may consolidate hearings involving the same responsible person and/or the same property.

(d) The hearing officer may continue a hearing for good cause.

SEC. 18.210. FAILURE TO APPEAL OR ATTEND CIVIL PENALTIES HEARING.

(a) The failure of any responsible person, who has been served with a Notice and Order, to appeal the Notice and Order or attend a properly noticed civil penalties hearing shall constitute a waiver of the right to an administrative hearing, the right to contest the Notice and Order and the right to contest any issue that could have been considered or is considered by the hearing officer at the hearing. If a responsible person, who has been served with a notice of hearing fails to appear for a hearing, a Director may request the hearing be continued or may elect to go forward with the hearing without the responsible person.

(b) If a person served with a Notice and Order does not request a hearing to appeal the Notice and Order within the time required by section 18.208(a) the director may issue an Administrative Enforcement Order, without a hearing, for any violation that was the subject of the Notice and Order.

SEC. 18.211. DECISION AND ADMINISTRATIVE ENFORCEMENT ORDER.

(a) The hearing officer shall issue a written decision within five business days after all testimony and other evidence have been received. If the hearing officer sustains the Director's Notice and Order in whole or in part, the hearing officer shall also issue an Administrative Enforcement Order (AEO).

(b) The hearing officer's decision shall address each issue in section 18.208(b). The hearing officer shall consider the factors in section 18.205(c) in determining whether the amount of civil penalties assessed is reasonable. A hearing officer may reduce the daily rate of civil penalties assessed by the Director's Notice and Order, but the hearing officer may not eliminate a daily civil penalty or award a nominal civil penalty against a responsible person on any day the hearing officer finds that the responsible person committed a violation.

(c) If the hearing officer is required to issue an AEO pursuant to this section the AEO shall order a responsible person to pay within 10 days of the order, the amount of civil penalties due as of the date of the hearing. If requested by a Director and warranted by the evidence an AEO may also establish a deadline by which a responsible person shall: (1) cease any violation subject to enforcement under this chapter and/or (2) take corrective action to prevent further violations.

(d) If the hearing officer determines the Director, who issued the Notice and Order, is the prevailing party, the AEO shall also assess the County's administrative costs of the hearing against the responsible person and shall add the costs to the amount of any civil penalty a responsible person is ordered to pay.

(e) A hearing officer may also schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the AEO.

(f) When a Director issues an AEO pursuant to section 18.210(b) the Director shall state in the AEO:

- (1) The Director has issued an AEO,
- (2) The responsible person is ordered to pay the amount of civil penalties assessed within 10 days of the date of the order,
- (3) When applicable, the responsible person is ordered to cease any ongoing violation by the date provided in the order, and
- (4) When applicable, the responsible person is ordered to take corrective action by the date provided in the order.

(g) An AEO shall be served upon a responsible person as provided in section 18.206.

SEC. 18.212. FAILURE TO COMPLY WITH AN ADMINISTRATIVE ENFORCEMENT ORDER.

(a) After the responsible person is served with an AEO, the Director shall monitor the violations and determine compliance.

(b) If a responsible person fails to comply with the terms and deadlines set forth in an AEO, the Director may use all available legal means to obtain compliance and to recover the civil penalties owed. These means include, but are not limited to, the following:

- (1) The County may refer the debt to the Auditor and Controller for collection;
- (2) The County may file a civil action and/or
- (3) The County may record an AEO as a lien against the real property on which the violation is located in accordance with the procedures found in Section 18.214.

(c) It shall be unlawful for a person who has been served with an AEO to fail to comply with the Order.

SEC. 18.213. RIGHT TO JUDICIAL REVIEW.

Any person against whom an AEO has been entered may obtain review of the order by filing a petition for writ of mandate with the San Diego County Superior Court in accordance with the timelines and procedures set forth in California Code of Civil Procedure Section 1094.5.

SEC. 18.214. PROCEDURES TO RECORD ORDERS AS LIENS.

If the responsible person fails to pay civil penalties in an AEO the County may record the order as a lien against the real property upon which a violation is located in accordance with the following procedures:

(a) Before recording, the Director shall serve the responsible person with a Notice of Intent to Record an AEO which informs the responsible person that recording the order will result in lien against real property unless the responsible person pays the amount due with 45 days from the date of the notice. The Director shall serve the Notice of Intent to Record an AEO as provided by Section 18.206.

(b) If the responsible person fails to pay the amount due in full by the due date the County may record the AEO as a lien. The lien shall attach upon recording the order in the Office of the County Recorder. The lien shall continue until the amount of the lien is paid in full.

(c) Notice of recording the AEO as a lien may be provided to the responsible person as provided by Government Code section 27297.5.

Section 3. Amend Title 2 of the San Diego County Code of Regulatory Ordinances to read as follows:

DIVISION 1 BUSINESS REGULATIONS

CHAPTER 1. UNIFORM LICENSING PROCEDURE

SEC. 21.101. LICENSES, PERMITS AND REGISTRATION REQUIRED.

This chapter establishes a Uniform Licensing Procedure and only applies to the activities that require licenses, permits or registration under sections 21.102 and 21.103 unless this code provides that this chapter or any portion of this chapter regulates other activities. For purposes of this chapter "license" means a license, permit or registration and "licensee" means a licensee, permittee or registrant. No person other than an applicant for a license shall have any right to challenge a decision to grant, deny, suspend or revoke a license. It shall be unlawful for any person to engage in any activity listed in sections 21.102 and 21.103 within the unincorporated area of the County of San Diego:

(a) Without first having obtained a license from the appropriate Issuing Officer as described below:

(b) After a license required by this chapter has expired or been suspended or revoked;

(c) Contrary to terms of the license issued pursuant to this chapter.

SEC. 21.102. LICENSE REQUIRED FROM THE SHERIFF.

The following activities require a license for which the Sheriff is the Issuing Officer:

(a) Amusement Establishment and Devices

(b) Amusement Ride Centers/Go-Cart Centers

(c) Bathhouses

(d) Carnivals and Circuses

(e) Casino Parties

(f) Entertainment Establishments

(g) Entertainment Managers

- (h) Firearms Dealers
- (i) Fortune Telling
- (j) Holistic Health Practitioners
- (k) Junk Yards and Motor Vehicle Wrecking Yards
- (l) Massage Establishments
- (m) Massage Technicians
- (n) Massage Technician Trainees
- (o) Merchandise Coupons
- (p) Off-Premises Massage
- (q) Outdoor Assemblies
- (r) Outdoor Assembly Managers
- (s) Pawnbrokers and Second Hand Dealers
- (t) Public Dances
- (u) Shooting Ranges
- (v) Solicitors
 - (1) License
 - (2) Identification Card
- (w) Swap Meets
- (x) Taxicab Operators and Taxicab Drivers
 - (1) Operator's License
 - (2) Driver's Identification Card
- (y) Teen-age Dances

SEC. 21.103. LICENSE REQUIRED FROM THE DEPARTMENT OF ANIMAL SERVICES.

The following activities require a license for which the Department of Animal Services is the Issuing Officer:

- (a) Kennels
- (b) Guard Dogs
 - (1) Operator's Permit
 - (2) Premises Permit

SEC. 21.104. APPLICATION PROCEDURE.

An application for a license shall be submitted to the Issuing Officer on a form provided by the Issuing Officer. The application shall be accompanied by the appropriate application fee as provided in section 21.106 and shall not be accepted by the Issuing Officer until the fee is paid. The applicant, by submitting the application consents to the investigation under section 21.107.

SEC. 21.105. NOT TRANSFERABLE.

No license shall be transferable from one person to another person or from one location to another location unless the license or permit provides it is transferable.

SEC. 21.106. COST OF INVESTIGATION AND FEES.

(a) The application fee for each license required by this chapter shall be an amount sufficient for the County to recover its costs to investigate and process the application, conduct an appeal hearing and all enforcement costs for regulating the activities in sections 21.102 and 21.103. The application fee is not refundable.

(b) The fees for licenses for which the Sheriff is the Issuing Officer are as provided in section 21.1901. The fees for licenses for which the Department of Animal Services is the Issuing Officer shall be established by resolution of the Board of Supervisors and shall be on file with the Clerk of the Board.

SEC. 21.107. APPLICATION INVESTIGATION.

(a) The Issuing Officer may investigate each application for a license required by this chapter to determine whether the applicant:

(1) Has completely and accurately furnished information on the application or in response to any other request for information made by the Issuing Officer or any other County employee or County department concerning the application.

(2) Meets all minimum age requirements under federal, State and County laws and regulations.

(3) Has been convicted of a crime. The Issuing Officer is authorized to obtain the applicant's fingerprints and transmit the fingerprints to the State Department of Justice and to obtain the applicant's State and local criminal history information.

(4) Committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the applicant or another person or to injure another person, or

(5) Committed an act involving moral turpitude.

(b) The Issuing Officer, as part of the investigation, may:

(1) Request that any person or public entity provide information the Issuing Officer deems relevant and necessary to investigate the application.

(2) Determine whether the location at which the applicant intends to conduct the proposed activity complies with all federal, State and County laws and regulations.

(3) Post for 10 days in a conspicuous place where the Issuing Officer conducts business a notice stating; (A) the name and address of the applicant, (B) the location(s) where the applicant intends to conduct the activity for which a license is required, (C) the type of license applied for, (D) whether the application is for a new license or request for renewal, (E) that any person may submit relevant information to the Issuing Officer in connection with the application and (F) that any information must be submitted to the Issuing Officer no later than five days from the last day the notice will be posted.

SEC. 21.108. GROUNDS FOR DENIAL OR ISSUANCE OF NEW LICENSE.

(a) The Issuing Officer may deny a new license on any of the following grounds:

(1) Applicant does not meet the minimum age requirements established by federal, State or County law or regulation for the activity. If no other law or regulation provides for a minimum age, the minimum age is 18.

(2) The applicant or any person on the applicant's behalf has made any false statement of a material fact in the application or in any report or record the applicant is required to provide or maintain under this code; or

(3) The activity at the location proposed is prohibited by any federal, State or County law or regulation; or

(4) Within five years preceding the date of the application, the applicant has been convicted of any felony involving theft, fraud, violence, sex with a minor, sale of any controlled substance on Schedules I-V of the Health and Safety Code or any other felony

involving moral turpitude. The applicant's conviction within five years of any of the above stated offenses shall be prima facie evidence of the applicant's unfitness for a license governed by this chapter. The applicant may present evidence of rehabilitation that the Issuing Officer or any hearing officer shall consider in determining the applicant's fitness for a license, but the applicant bears the burden of overcoming the presumption of unfitness resulting from the conviction.

(b) Except for an Entertainment Establishment License under sections 21.2101 et seq. the Issuing Officer may also deny a new license required by this chapter for the following additional grounds if the applicant:

(1) Within five years preceding the date of the application has been convicted of any offense involving deceptive trade practices or other illegal business practices that cast doubt upon the applicant's qualifications or fitness to engage in the activity for which the license is requested; or

(2) Violated any ordinance or law regulating the activity for which applicant requests a license; or

(3) Fails to meet any State Law requirement for a license. If State Law precludes the Issuing Officer from applying any portion of paragraphs (b)(1) and/or (b)(2) above to the application process the Issuing Officer may only rely upon grounds not precluded by State Law.

(4) Suffers from alcoholism, drug addiction or any other physical or mental disorder, condition or disease that the Issuing Officer determines renders the applicant unfit to engage in the activity for which the applicant seeks a license.

(c) The Issuing Officer shall issue the license or notify the applicant within 30 days after the applicant filed a complete application that the license has been denied.

SEC. 21.109. EXPIRATION AND RENEWAL.

(a) A license issued pursuant to this chapter shall expire one year from the date it is issued unless the license by its terms provides a different expiration date. A license may be renewed by filing a renewal application not more than 60 days and not less than 40 days prior to the expiration date. The Issuing Officer may deny renewal on the following grounds:

(1) Any of the grounds for denying a new license; or

(2) The licensee committed an illegal act, or allowed any of its agents or employees to commit an illegal act, while engaging in the activity for which the license was issued or used or allowed any agent or employee to use the license contrary to its terms; or

(3) The licensee failed or refused to surrender the license to the Issuing Officer after receiving notice the license was suspended or revoked; or

(4) State Law provides the applicant is not entitled to renew the license. If State Law precludes the Issuing Officer from applying paragraphs (2) or (3) the Issuing Officer may only rely upon grounds not precluded by State Law.

(b) The Issuing Officer shall issue the renewal license or notify the applicant within 30 days after the applicant filed a complete application that the renewal has been denied.

SEC. 21.110. NOTICE OF DENIAL AND STATEMENT OF APPEAL RIGHTS.

(a) If the Issuing Officer denies a new or renewal license other than an Entertainment Establishment License, the Issuing Officer shall give the applicant notice of the denial stating each finding the Issuing Officer relied upon for the denial and advising the applicant of the following appeal rights:

(1) The right to a hearing before the Issuing Officer to contest the denial, if within 21 days after the date of the notice the applicant makes a written request for a hearing to the Issuing Officer,

(2) At the hearing the applicant may present evidence and be represented by legal counsel,

(3) If the applicant fails to request a hearing within 21 days of the date of the notice the applicant waives all rights to contest the denial,

(4) If after the hearing before the Issuing Officer the hearing officer does not overturn the denial, the applicant has the right to appeal the Issuing Officer's decision to the Appellate Hearing Board, but only if the applicant appears at and completes the hearing before the Issuing Officer.

(b) If the Issuing Officer denies an Entertainment Establishment License the Issuing Officer shall give the applicant notice that states the decision is final and the applicant is entitled to prompt judicial review by a court of competent jurisdiction. The County hereby designates the denial of an Entertainment Establishment License under this section to be eligible for expedited judicial review pursuant to Code of Civil Procedure section 1094.8. If the applicant files an action for Administrative Mandamus under section 1094.8 to challenge the Issuing Officer's denial of the license the Issuing Officer shall immediately issue the applicant a provisional license. The provisional license shall allow the applicant to engage in the activity and will expire upon the court's entry of a judgment on the applicant's appeal or other action to challenge the Issuing Officer's denial of the license. If the Issuing Officer determines that issuing a provisional license would threaten the health or safety of the public while judicial review is pending, the Issuing Officer shall not issue a provisional license.

SEC. 21.111. POSTING, DISPLAYING OR CARRYING LICENSE.

Any person issued a license under this chapter shall post, display or carry the license as follows:

(a) If the activity for which the license has been issued is at a fixed location the license shall be prominently posted at the location and a copy of the license shall be displayed in any vehicle used in connection with the activity.

(b) If the activity for which the license has been issued is conducted only from a vehicle the license shall be prominently displayed from the vehicle.

(c) If the activity is not conducted from a fixed location or vehicle the licensee shall carry the license at all times while conducting the activity and shall display the license to any person on request.

(d) No person shall post, display or carry any license after it has expired, been revoked or suspended.

SEC. 21.112. SUSPENSION OR REVOCATION.

(a) The Issuing Officer may suspend or revoke a license on the following grounds:

(1) The licensee committed any act which would be grounds to deny the license,
or

(2) The licensee committed an illegal act, or allowed any of its agents or employees to commit an illegal act, while engaging in the activity for which the license was issued or used or allowed any agent or employee to use the license to its terms; or

(3) The licensee refused to allow an inspection pursuant to section 21.117 or other inspection authorized by this code or State law.

(b) If the Issuing Officer proposes to suspend or revoke a license the Issuing Officer shall give the licensee notice that states:

(1) Whether the proposed action is to revoke or suspend the license and for suspension, the time period for the suspension,

(2) The reasons why the Issuing Officer believes the license should be suspended or revoked,

(3) The applicant has the right to a hearing before the Issuing Officer to contest the suspension or revocation of the license if within 21 days after the date of the notice the applicant makes a written request for a hearing to the Issuing Officer,

(4) At the hearing the applicant may present evidence and be represented by legal counsel,

(5) If the applicant fails to request the hearing within 21 days of the date of the notice the applicant waives all rights to contest the license revocation or suspension,

(6) If after the hearing before the Issuing Officer the hearing officer does not overturn the decision to suspend or revoke the license the applicant has the right to an appeal the Issuing Officer's decision to the Appellate Hearing Board, but only if the applicant appears at the hearing and completes the hearing before the Issuing Officer.

(c) If the Issuing Officer determines to suspend or revoke an Entertainment Establishment License the Issuing Officer shall give the applicant notice that the decision is final and the applicant is entitled to prompt judicial review. The County hereby designates the suspension or revocation of an Entertainment Establishment License under this section to be eligible for expedited judicial review pursuant to Code of Civil Procedure section 1094.8. If the applicant files an action for Administrative Mandamus under section 1094.8 to challenge the Issuing Officer's suspension or revocation of the license the Issuing Officer shall immediately issue the applicant a provisional license. The provisional license shall allow the applicant to engage in the activity and will expire upon the court's entry of a judgment on the applicant's appeal or other action to challenge the Issuing Officer's denial of the license. If the Issuing Officer determines that issuing a provisional license would threaten the health or safety of the public while judicial review is pending, the Issuing Officer shall not issue a provisional license.

SEC. 21.113. HEARINGS -- ISSUING OFFICER.

(a) If the Issuing Officer receives a request for hearing after issuing a notice of denial pursuant to section 21.110 or a notice of intent to suspend or revoke a license pursuant to section 21.112 the Issuing Officer shall:

(1) Schedule a date for the hearing no more than 30 days and no less than 15 days after the Issuing Officer's receives the request.

(2) Notify the appellant of the date, time and location of the hearing.

(3) State in the notice that the appellant must appear at and complete the hearing in order to contest the denial or the proposed suspension or revocation.

(4) Assign a member of the Issuing Officer's department to be the hearing officer who was not been involved in the investigation of the applicant, any decision to deny the license or any decision to suspend or revoke the license.

(b) Once scheduled, the hearing shall not be continued except for good cause.

(c) In cases where the license or permit was denied, the hearing officer shall determine whether the evidence establishes grounds to deny the license.

(d) In cases where the Issuing Officer proposes to suspend or revoke the license the hearing officer shall determine:

- (1) Whether the evidence establishes grounds for suspension or revocation.
- (2) Whether a shorter period of suspension should be imposed rather than the time period the Issuing Officer proposed.

(e) The hearing officer's decision shall be in writing. Within three days of the hearing the decision shall be provided to the appellant pursuant to the notice provisions of section 11.112 of this code. The decision may also be posted at the office of the Issuing Officer for five days. If the appellant failed to appear or failed to complete the hearing the decision shall state the appeal is denied and not appealable. Otherwise, the decision shall state:

- (1) The hearing officer's findings of fact, conclusions and reasons for the decision,
- (2) If the decision is adverse to the appellant it shall state that the appellant may appeal the decision to the Appellate Hearing Board,
- (3) If decision imposes a license suspension or revocation, it shall state the suspension or revocation will become effective 15 days after the date of the decision unless the appellant appeals the decision to the Appellate Hearing Board before the 15 days expire.

SEC. 21.114. STAY OF SUSPENSION OR REVOCATION.

The effect of a decision of the hearing officer to suspend or revoke a license shall be stayed while an appeal to the Appellate Hearing Board is pending or until the time for filing the appeal has expired. There shall be no stay of the effect of the decision of the hearing officer upholding the denial of any license.

SEC. 21.115. EXCEPTION TO HEARING PROCEDURE.

Notwithstanding any other provision of this code, when, in the opinion of the Issuing Officer, there is a clear and immediate threat to the safety and protection of the public, the Issuing Officer may suspend or revoke a license without a hearing. The Issuing Officer shall prepare a written notice of suspension or revocation which includes a statement of the action, a concise explanation of the reasons for the action, the code section(s) relied upon for the action and an explanation of the licensee's right to request a hearing from the Issuing Officer. The licensee may request a hearing from the Issuing Officer within five days of a notice that is personally served or within 10 days if the notice is sent by mail. The procedures in section 21.113 apply to this hearing except that the hearing shall be held not more than 15 days from the date the Issuing Officer receives the request for hearing decision and the Issuing Officer's decision shall not be stayed while the hearing or appeal is pending.

SEC. 21.116. APPEAL TO APPELLATE HEARING BOARD.

(a) A licensee who receives an adverse decision from a hearing officer pursuant to section 21.113(e)(2) has the right to appeal to the Appellate Hearing Board within 15 days of the date of the hearing officer's decision. The appellant shall file a timely written notice of appeal to the Clerk of the Board of Supervisors. The notice of appeal shall provide:

- (1) The name and address of the person filing the appeal,
- (2) The name of the hearing officer who issued the decision appealed from,
- (3) The date of the decision,
- (4) Whether the decision is from a denial or a suspension or revocation of a license,
- (5) The reasons why the appellant asserts the hearing officer's decision is erroneous.

(b) The Clerk of the Board will schedule a hearing under section 16.102.

SEC 21.117. CONSENT TO COMPLIANCE INSPECTION.

Any person to whom a license is issued under this title consents to reasonable compliance inspections by the Issuing Officer or any Building, Fire or Health official with jurisdiction over the site where the activity is carried on. The compliance inspections may only be conducted during normal operating hours and are solely for the purpose of determining whether the activity is being carried on in compliance with federal, State and County laws, ordinances or regulations and to promote the public health and safety. Failure to allow the inspection under this section is grounds for suspension or revocation of the license.

CHAPTER 2. COMMUNITY EVENTS

SEC. 21.201. DEFINITIONS.

(a) "Community event" means an event sponsored by a nonprofit organization or any agency of the federal, State or local government that takes place at a fixed location for four consecutive days or less and is open to the general public.

(b) "Nonprofit organization" means a nonprofit organization that is exempt from taxation pursuant to sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the California Revenue and Taxation Code.

SEC. 21.202. PERMIT REQUIRED.

A community event requires a permit for which the County Department of Environmental Health (DEH) is the Issuing Officer. A community event less than four hours in duration, however, does not require a permit under this chapter. Community event permits are not subject to sections 21.101-21.117, but some of those sections as designated below, may be applied to this chapter.

SEC. 21.203. PERMIT APPLICATION REQUIREMENTS.

(a) An applicant for a community event permit shall submit an application at least 30 days before the first day of the proposed event on a form provided by DEH. With the application form the applicant shall also submit additional information required by DEH, depending on the type of event, to determine whether or not the applicant is entitled to a permit under this chapter.

(b) As part of the application process the applicant shall also provide:

- (1) Proof of the organization's nonprofit status,
- (2) Proof of insurance coverage, if required under section 21.205.

(c) The application shall not be deemed complete until all information required by paragraphs (a) and (b) have been submitted to DEH.

(d) DEH and other County departments from which DEH requests assistance may follow the investigatory procedures in section 21.107 and any other investigatory procedures they deem necessary to investigate the application.

SEC. 21.204. ISSUANCE OR DENIAL OF PERMIT.

(a) DEH may deny a permit for a community event based upon any of the grounds stated in section 21.108 or if it determines one of the following conditions may occur, which the applicant is unable to mitigate against:

(1) The event will cause an increase in the amount of pedestrian and/or vehicular traffic that will likely present a threat to public health or safety to event attendees, participants, area residents or others in the vicinity where the event is proposed to occur.

(2) The event will require diverting a significant number of law enforcement personnel from their normal duties that will likely prevent reasonable law enforcement protection to the community in the area where the event is proposed.

(b) DEH may also deny a permit for a community event if the applicant violated this code or State law during a previous community event and is unable to demonstrate to the satisfaction of DEH that it would not violate this code or State law if DEH were to issue a permit for the event.

(c) If DEH denies a community event permit it shall follow the procedures under section 21.110. An applicant denied a permit under this chapter may appeal by following the appeal procedure provided in sections 21.110(a) and 21.116.

(d) DEH shall issue or deny the permit within 15 days after the application is complete.

SEC. 21.205. INSURANCE.

The County's Risk Management Division of the Department of Human Resources, in its sole discretion shall determine whether insurance coverage is necessary, the amount of insurance and whether a proposed insurance policy complies with the requirements of this section. The insurance necessary to comply with this section is commercial general liability insurance. If alcoholic beverages are served at a community event, the County may also require liquor liability insurance. The insurance coverage shall insure the applicant and all event entertainers, vendors, solicitors and all other participants against loss resulting from liability for damages for bodily injury or death and property damage incurred by any person arising from the event. Any insurance policy required by this section shall name the County as an additional insured.

SEC. 21.206. PERMIT REVOCATION.

(a) DEH may revoke a community event permit if it determines that:

(1) One or more of the applicable grounds for revoking a permit in section 21.112 exist,

(2) The permittee is unable to mitigate against the conditions in 21.204(a) that DEH found would likely occur, or,

(3) The permittee has violated or is violating this code or State law.

(b) If DEH revokes a community event permit it shall give notice in writing stating the reasons why the permit has been revoked. If under the circumstances DEH cannot provide notice before revoking a permit it shall provide notice as soon as practicable after the revocation occurs.

(c) A permittee whose permit is revoked may appeal by following the appeal procedure provided in sections 21.110(a) and 21.116.

SEC. 21.207. LITTER CONTROL AND SITE RESTORATION.

As a condition of the permit the permittee shall be required to clean and restore the location where the event occurs, including the surrounding areas and any adjacent roadways to the same condition as existed before the event. If the permittee fails to comply with this condition the County may bill the permittee for any costs the County incurs for clean-up and restoration. A permittee's failure to comply with this condition may constitute additional grounds for DEH to deny a future permit or may result in the permittee being required to post security as a condition for approval of a future event permit.

SEC. 21.208. LIMITATION.

A nonprofit organization shall be entitled to conduct a maximum of 6 community events within a 12 month period.

CHAPTER 3. TAXICABS AND TAXICAB OPERATORS

SEC. 21.301. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Medallion" means the pre-numbered decal placed on a taxicab by the Issuing Officer annually, signifying that the "taxicab operator" is authorized to operate the vehicle as a taxicab in the unincorporated areas of the County.

(b) "Posted rate" means the rate the operator has registered with the Issuing Officer for transporting passengers and which is posted in the taxicab. The "posted rate" includes flat rate fares and the fares at which the taximeter has been calibrated and inspected by the Sealer of Weights and Measures.

(c) "Taxicab" means a motor vehicle as the term is defined by the California Vehicle Code, used for transportation of passengers for hire, equipped with a taximeter. A taxicab shall be a vehicle designed to transport no more than 8 passengers, excluding the driver.

(d) "Taxicab driver" means any person who drives or controls the movements of a taxicab.

(e) "Taxicab driver's identification card" means the annual license issued to a taxicab driver under this chapter authorizing the driver to operate a taxicab in the unincorporated area of the County.

(f) "Taxicab operator" means a person engaged in the taxicab business.

(g) "Taxicab operator's license" means the annual license issued by the Issuing Officer authorizing a taxicab operator to pickup passengers in the unincorporated areas of San Diego County.

(h) "Taxicab permit" means the annual permit issued by the Issuing Officer to a taxicab operator for each taxicab that has satisfactorily passed inspection.

(i) "Taxicab stand" means an area designated by the County Road Commissioner for the exclusive use by taxicabs to load or unload passengers or to park or stand while waiting for employment by passengers.

(j) "Taximeter" means a device on the inside of a taxicab that is calibrated to calculate the fare earned by the taxicab operator for transporting passengers.

SEC. 21.302. TAXICAB OPERATOR'S LICENSE.

The taxicab operator's license is governed by sections 21.101 to 21.117 and any additional conditions in this chapter. In addition to the grounds for denying a new or renewal license provided in sections 21.108 and 21.109 respectively, the Issuing Officer may deny a new or renewal taxicab operator's license if the applicant does not have the insurance coverage required by this chapter. The Sheriff shall be the Issuing Officer for licenses under this section and for taxicab driver's identification cards required by section 21.307.

SEC. 21.303. ADDITIONAL REASONS FOR REVOCATION OR SUSPENSION OF TAXICAB OPERATOR'S LICENSE.

In addition to the reasons in sections 21.112 for revoking or suspending a taxicab operator's license the Issuing Officer may revoke or suspend the license if the operator his agents, or employees is responsible for any of the following:

- (a) Charging or demanding a passenger pay a fare exceeding the posted rate.
- (b) Driving or controlling the movements of a taxicab without a valid driver's identification card issued pursuant to this code.
- (c) Allowing a person to drive or control the movements of a taxicab without a valid driver's identification card issued pursuant to this code.
- (d) Operating or allowing another person to operate a taxicab without the insurance coverage required by this chapter.
- (e) Operating or allowing another person to operate a taxicab that has not been issued a valid taxicab permit or a valid medallion by the Issuing Officer.

(f) Operating a taxicab without a current taximeter registration certificate issued by the Sealer of Weights and Measures or without the registration certificate in the vehicle.

(g) Violating any other provision of this code.

SEC. 21.304. REGULATION OF TAXICAB OPERATORS.

(a) It shall be unlawful for any taxicab operator to, refuse a prospective or actual fare, take any action to actively discourage a prospective or actual fare or refuse to dispatch a driver:

(1) Based on the race, creed, color, age, sex, national origin or disability of any prospective passenger.

(2) Based upon the length of any trip if the trip is within the area normally serviced by the operator.

(b) A taxicab operator shall require taxicab drivers using the operator's taxicabs to maintain trip logs and turn them in at least once a week, as required by section 21.315(n). A taxicab operator shall maintain the trip logs for one year from the date they are turned in and shall have them available for inspection by the Issuing Officer.

SEC. 21.305. INSPECTION OF TAXICABS.

(a) It shall be unlawful for a taxicab operator to operate a taxicab unless the taxicab has passed an initial inspection either by the Issuing Officer or another person approved by the Issuing Officer. The inspection may include but not be limited to the taxicab operating conditions listed in this chapter and any other conditions the Issuing Officer reasonably determines a taxicab must comply with to operate safely. If the taxicab passes the initial inspection the Issuing Officer shall issue a taxicab permit for one year.

(b) After passing the initial inspection a taxicab shall pass an annual inspection to satisfy the same conditions required by the initial inspection. It shall be unlawful for a taxicab operator to operate a taxicab that has not passed its annual inspection and been issued an annual permit.

(c) If the Issuing Officer is satisfied that a taxicab has passed an inspection required by this section the Issuing Officer shall issue an annual taxicab permit and affix a medallion on the vehicle authorizing the operator to place the taxicab in service for one year.

(d) It shall be unlawful for any person other than the Issuing Officer or his designee to place a medallion on or remove a medallion from a taxicab. It shall also be unlawful to tamper with or alter a medallion.

(e) The absence of a medallion on a taxicab that complies with paragraph (c) above shall be prima facie evidence in a proceeding to suspend or revoke a taxicab operator's license for operating a taxicab without a valid medallion.

SEC. 21.306. CONDITION OF TAXICABS.

(a) The taxicab operator shall not allow any taxicab to remain in service unless the vehicle meets all the minimum requirements to pass inspection contained in paragraph (b) below.

(b) The minimum requirements for the initial inspection and annual inspections that all taxicabs must meet are as follows:

(1) Hubcaps or wheel covers are on all wheels for which hubcaps or wheel covers are standard equipment.

(2) There are no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. Fenders, bumpers and light trim are securely fixed to the vehicle. No taxicab has extensive un-repaired body damage. The vehicle is equipped with front and rear bumpers. The exterior of the vehicle is in a reasonably clean condition so as not to obscure the company or owner's name on the vehicle and any number assigned to the vehicle.

(3) The vehicle is painted and marked in accordance with the color scheme approved by the Issuing Officer. Paint and markings are not faded or deteriorated in such a manner as to preclude immediate recognition of the approved color scheme, the company or owner's name and any number assigned to the vehicle.

(4) Headlights are operable on both high and low beam. Taillights, parking lights, signal lights, and interior lights are all operable.

(5) The vehicle is equipped with adequate windshield wipers maintained in good operating condition.

(6) All brake systems are operable.

(7) Excessive play in the steering mechanism does not exceed three inches free play in turning the steering wheel from side to side.

(8) The engine compartment is reasonably clean and free of uncontained combustible materials.

(9) Mufflers are in good operating condition.

(10) The windshield is without cracks or chips that could interfere with the driver's vision. All other windows are intact and able to be opened and closed as intended by the manufacturer. The windows and windshield are in a reasonably clean condition so as not to obstruct visibility.

(11) All door latches and door handles are operable from both the interior and exterior of the vehicle.

(12) The vehicle's suspension system does not sag because of weak or broken springs or excessive motion when the vehicle is in operation, due to weak or defective shock absorbers.

(13) All seats are securely fastened to the vehicle. Seat belts, when required by the California Vehicle Code, are installed. The upholstery is free of grease, holes, rips, torn seams and bums.

(14) The interior of each vehicle and the trunk or luggage area is in a reasonably clean condition, free of foreign matter, offensive odors and litter. The seats are reasonably clean and without large wear spots. The door handles and doors are intact and clean. The trunk or luggage area is empty except for a spare tire, a personal container for the driver not exceeding one cubic foot in volume and emergency equipment, to allow maximum space for passenger luggage and belongings.

(15) The tires comply with the California Vehicle Code.

SEC. 21.307. TAXICAB DRIVER'S IDENTIFICATION CARD-REQUIREMENTS AND ADDITIONAL GROUNDS FOR DENIAL.

(a) It shall be unlawful for any taxicab driver to pickup or discharge passengers in the unincorporated areas of the County of San Diego without first obtaining a taxicab driver's identification card from the Issuing Officer. The Issuing Officer may issue an applicant a temporary identification card for up to 60 days, while an investigation is pending.

(b) To be eligible for a taxicab driver's identification card a person must be at least 18 years of age, have a valid California vehicle operator's license, have successfully completed a drug screening test pursuant to Government Code section 53075.5(b)(3) and have obtained employment with at least one licensed taxicab operator. A taxicab driver may be employed by up to four licensed taxicab operators at one time, including being self-employed.

(c) In addition to the reasons for denying a new license under section 21.108 or a renewal license in section 21.109, the Issuing Officer may deny an applicant a taxicab driver's identification card if the Issuing Officer determines that:

(1) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.

(2) The applicant has been convicted of an offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.

(3) The applicant has within five years of the date of the application been convicted of any of the following motor vehicle offenses: operating a motor vehicle

under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death.

(4) The applicant has within five years of the date of the application been convicted of assault or battery.

(5) The applicant addicted to any substance prohibited by the Uniform Controlled Substances Act (Health and Safety Code Section 11000 et seq.) unless the applicant is enrolled and successfully participating in a drug treatment program approved by the Court.

(6) The applicant within 12 months of the date of the application, has been convicted of, or held by any final administrative determination to have committed an act listed in section 21.315 below that would be grounds for suspending or revoking a taxicab driver's identification card.

(d) The Issuing Officer may also require an applicant to demonstrate that the applicant is knowledgeable about the provisions of this chapter, State and local traffic regulations and geography of the County, in order to qualify for the identification card.

SEC. 21.308. TAXICAB DRIVER'S IDENTIFICATION CARD -TERMS.

(a) A taxicab driver's identification card shall be valid for one calendar year from the date it is issued. If the Issuing Officer suspends the card, it shall not extend the one-year term.

(b) The identification card may be renewed within the 30 days prior to its expiration date by submitting a renewal application with the Issuing Officer.

(c) The identification card shall contain the taxicab driver's full name, date of birth, physical description, thumbprint, names of the companies he works for, expiration date and be laminated.

(d) A new laminated taxicab driver's identification card shall be issued each time a valid identification card must be replaced because it is lost, damaged or the driver changes employers between the date of issue and the date of expiration. The driver must pay the renewal fee as provided by section 21.1901 to cover the cost of the new card.

SEC. 21.309. NOTICE OF TAXICAB DRIVER'S CHANGE OF EMPLOYMENT.

At least once a month every taxicab operator shall notify the Issuing Officer of the name and driver's identification card number of each taxicab driver who has left the taxicab operator's employment.

SEC. 21.310. ADDITIONAL REASONS FOR REVOCATION OR SUSPENSION OF TAXICAB DRIVER'S IDENTIFICATION CARD.

In addition to the reasons stated in section 21.112 for suspending or revoking a license the Issuing Officer may suspend or revoke a taxicab driver's identification card if the driver commits an act in section 21.307(c) or:

(a) Has a driving record showing a violation point count as provided by California Vehicle Code sections 12810 and 12810.5,

(b) Alters, tampers with or duplicates a taxicab driver's identification card,

(c) Displays or causes to be displayed or has in his possession any taxicab driver's identification card of the type described in paragraph (b) above,

(d) Fails to comply with section 21.315 of this chapter or any other section of this chapter that regulates the conduct of taxicab drivers,

(e) Has his California driver's license suspended or revoked,

(f) Has his taxicab driver's privileges suspended or revoked by any other jurisdiction in San Diego County that regulates taxicab driver's in its jurisdiction, or

(g) Fails to promptly obey all lawful orders or instructions of any peace officer or fire department official.

SEC. 21.311. INSURANCE REQUIRED.

(a) It shall be unlawful for any person to operate a taxicab business within the unincorporated areas of the County unless the person has in effect insurance coverage issued by a company authorized to transact insurance business in the State of California with coverage amounts that meet the requirements of paragraph (b) below. The insurance coverage required by this section shall insure the public against any loss or damage that may result to any person or property from the operation of all taxicabs used by the operator in the operator's business. A taxicab operator shall furnish the Issuing Officer with a certificate of insurance coverage as a prerequisite to obtaining a taxicab operator's license. The certificate shall provide that the insurer will notify the Issuing Officer in writing of any policy cancellation and the notice shall be sent to the Issuing Officer by registered mail at least 30 days prior to cancellation of the policy. The certificate shall also state:

- (1) The full name of the insurer;
- (2) The name and address of the insured;
- (3) The insurance policy number;

- (4) The type and limits of coverage;
- (5) The specific vehicle(s) insured;
- (6) The effective dates of the certificate; and
- (7) The certificate issue date.

(b) The insurance shall provide coverage for each taxicab in an amount not less than \$350,000 per occurrence, combined single limit for bodily injury and property damage.

SEC. 21.312. TAXICAB, COLORS AND COMPANY NAMES.

(a) Each taxicab operator shall have his taxicab(s) painted a distinctive color or colors approved by the Issuing Officer and shall have permanently affixed to each taxicab the operator's name or the name under which the operator does business. If the operator has more than one taxicab, each taxicab shall be numbered.

(b) It shall be unlawful for any person to knowingly modify or alter any taxicab with the intent to deceive the public as to the taxicab operator's identity or to conceal the fact that a vehicle is a taxicab.

SEC. 21.313. TAXICAB FARES.

(a) A taxicab operator shall file with the operator's license application a statement of the "posted rate" the operator charges to transport passengers. The "posted rate" shall apply to all taxicabs operated under the taxicab operator's license. Posted rates shall be in effect for not less than three months. The operator shall file a rate amendment with the Issuing Officer at least 14 days before any new "posted rate" is to take effect.

(b) The operator shall prominently post the rate schedule on the interior of both rear doors of all taxicabs in letters at least one inch high. The rates shall be in dollars and cents and shall be broken down as follows:

- (1) Flag drop rate
- (2) Travel charge rate
- (3) Time charge rate

(c) The fare shall be displayed on a taximeter in dollars and cents. The figures that display the fare shall be easily readable by persons in the passenger compartment of the taxicab.

(d) It shall be unlawful for a passenger who has hired a taxicab to refuse to pay the fare.

(e) It shall be unlawful for the taxicab operator or the taxicab driver to request the passenger pay a fare in excess of the posted rate.

(f) Every taxicab operator, driver, agent and employee shall accurately state the "posted rate" in effect in response to any inquiry.

SEC. 21.314. TAXIMETERS.

(a) Every taxicab shall be equipped with a taximeter that has been registered, inspected and sealed by the Sealer of Weights and Measures before a taxicab is placed in service for the first time. A taxicab operator shall also submit every taximeter in the taxicabs it operates to the Sealer for an annual registration and inspection.

(b) It shall be unlawful for a taxicab operator to place a taxicab in service that is not equipped with a taximeter:

(1) That accurately calculates the approved fare the taxicab operator is authorized by the Issuing Officer to charge.

(2) That bears a current registration certificate from the Sealer of Weights and Measures.

(c) It shall be unlawful for a taxicab driver:

(1) To transport passengers for a fee in any taxicab that is not equipped with a taximeter.

(2) To transport passengers for a fee in any taxicab equipped with a taximeter that does not have a current registration certificate from the Sealer of Weights and Measures.

(3) To knowingly charge a passenger a fee that has been inaccurately calculated by a taximeter.

(d) The Issuing Officer may inspect any taximeter at any time.

(e) The Issuing Officer shall revoke the taxicab permit and order any taxicab operator to remove a taxicab from service that is, without a taximeter, has a taximeter that does not have a current registration certificate from the Sealer or that does not accurately calculate fares. It shall be unlawful for any taxicab operator to fail to comply with an order from the Issuing Officer to remove a taxicab from service.

SEC. 21.315. REGULATIONS APPLICABLE TO TAXICAB DRIVERS.

(a) A taxicab driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his destination safely and expeditiously.

(b) A taxicab driver shall provide a receipt to any passenger who requests one after the passenger pays the fare. The receipt shall indicate the beginning and ending points of

the trip, the fare charged, the date, the operator's name, and the vehicle number, and shall be signed by the driver.

(c) No person shall solicit passengers for taxicabs other than the taxicab driver. The taxicab driver, however, may not leave the taxicab to solicit passengers. The Issuing Officer may authorize a dispatcher to solicit passengers as a system of loading of passengers at such times and places as in the Issuing Officer's discretion public service and traffic conditions require.

(d) No taxicab driver shall transport more persons, including the driver than the manufacturer's rated seated capacity for the vehicle. A taxicab driver shall also not transport luggage or other items exceeding the vehicle's storage volume or load-carrying capacity.

(e) It shall be unlawful for any taxicab driver to allow a taxicab to remain standing in an established taxicab stand unless the driver remains within twelve feet of any portion of the established taxicab zone, or unless the taxicab driver is assisting passengers to load or unload.

(f) No taxicab driver shall knowingly pick up a person who has summoned a taxicab of a competitive taxicab company without informing the person that he does not represent the taxicab company the person summoned.

(g) No taxicab driver, who has been hired by a passenger, shall pickup any additional passenger without the consent of the original passenger.

(h) A taxicab driver shall not operate a taxicab unless he has affixed his driver's identification card in a prominent location inside the taxicab, visible to passengers in the passenger compartment. A taxicab driver while working shall display the name and photo identification badge issued to him by the Issuing Officer. The driver shall prominently display the badge on the outside front of the driver's clothing, between the waist and shoulders.

(i) It shall be unlawful for a taxicab driver to refuse a prospective or actual fare or to take any action to actively discourage a prospective or actual fare on the basis of race, creed, color, age, sex, national origin or disability. A taxicab driver may, however refuse a prospective or actual fare if it is readily apparent to the driver that a person presents a hazard to the driver. A taxicab driver is also not obligated to transport any person who is verbally or in any other way abusive to the driver.

(j) It shall be unlawful for a taxicab driver to refuse or discourage a prospective fare based upon the length of the trip if the trip is within the area normally serviced by the taxicab operator who employs the driver.

(k) A taxicab driver shall assist a passenger with loading or unloading a reasonable size, number, and type of passenger luggage or other items, when requested by a passenger. A driver, however, is not required to lift any single item that exceeds 25 pounds. The requirement to assist with loading or unloading shall be limited to retrieving or depositing items onto the nearest curbside adjacent to a legally parked taxicab. A sign in the form of a transparent decal may be affixed to the rear-door, side window stating that, "DRIVER IS NOT REQUIRED TO LOAD LUGGAGE IN EXCESS OF 25 POUNDS PER ITEM OR OF A SIZE OR KIND THAT WILL NOT SAFELY FIT IN THE DESIGNATED LUGGAGE AREA OF THIS VEHICLE." A driver with a lawful disability that prevents him from handling items may submit proof of disability to the Issuing Officer requesting relief from the requirement to assist passengers with luggage. If approved by the Issuing Officer, the driver may affix a small sign either in the passenger section of the vehicle to be visible to a rear seat passenger or on the inside of the trunk cover lid stating that, "DRIVER HAS DISABILITY THAT PREVENTS HANDLING OF LUGGAGE."

(l) A taxicab driver may seek passengers by driving on a public street, but may not travel at a speed or in a manner that interferes with or impedes traffic.

(m) A taxicab driver shall display an "out of service" sign when the taxicab is not available for hire. The sign must be located inside the vehicle to be visible and readable from outside the vehicle at a distance of at least 10 feet away.

(n) A taxicab driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer. The trip log shall show the driver's name, taxicab number, date, time, origin and destination of each trip, and fare charged. The logs shall have ruled lines and columns sufficient to include all required information and the entries shall be in black or dark blue ink. The driver shall submit his trip logs to the taxicab operator at least once a week.

(o) It shall be unlawful for any taxicab driver while transporting passengers to display the flag or device attached to the taximeter in a position indicating the vehicle is available for hire. It shall also be unlawful for the taxicab driver to prevent the taximeter from operating while the driver is transporting passengers. It shall also be unlawful for a taxicab driver to cause the taximeter to record when the taxicab is not employed or to allow the taximeter to continue to record after reaching the passenger's final destination.

CHAPTER 4. CASINO PARTIES

SEC. 21.401. PURPOSE AND AUTHORITY.

California Business and Professions Code sections 19985 et seq. were adopted to regulate nonprofit organizations fundraising events that involve games of chance. These

sections also provide that local governments have authority to regulate these events. This chapter supplements State law and provides a system to license nonprofits organizations conducting casino parties for fundraising in San Diego County.

21.402. DEFINITIONS.

For the purpose of this chapter the following definitions shall apply:

(a) "Advertisement" means a public promotion of a "casino party" by written material, media broadcast or any other method.

(b) "Casino Party" means a fundraising event conducted by a nonprofit organization in which members of the public play controlled games.

(c) "Casino Manager" means the individual listed on the license application who will be present at the event and be responsible for the operation of the casino party. A casino manager shall be a member of the charitable organization sponsoring the casino party.

(d) "Chips or scrip" means the tokens or simulated paper currency, respectively, used to play the casino games at the party.

(e) "Controlled games" has the same meaning as the term "controlled games" in Penal Code section 337j (e).

(f) "Donation" means a contribution of any tangible item, including merchandise, money, services or any other thing having pecuniary value for which the donor received no consideration.

(g) "Minor" means any person under the age of 21 years.

(h) "Nonprofit organization" has the same meaning as the term "nonprofit organization" in Business and Professions Code section 19986(h).

(i) "Prize" means any property or merchandise designated by the sponsoring organization to be distributed or awarded to a person selected by a raffle or other lottery.

(j) "Raffle or lottery" means any scheme for the disposal or distribution of property of merchandise by chance for no consideration.

SEC. 21.403. LICENSE REQUIRED.

(a) It shall be unlawful for any person to conduct a casino party in the unincorporated area of the County without a license issued by the Issuing Officer. The Sheriff shall be the Issuing Officer for a license under this chapter. Only a "nonprofit organization" as

defined in section 21.401(h) is eligible to apply for a license to conduct a casino party. No license to conduct an event under this chapter shall be issued unless the State Division of Gambling Control has pre-approved the event.

(b) The license required by this chapter shall be obtained pursuant to 21.101-21.117 of this code and the procedures described below.

(c) Operating a casino party without the license required by this chapter or contrary to the terms of the license shall be grounds for the Issuing Officer to seize all controlled gaming equipment being used. The Issuing Officer shall give notice in writing pursuant to section 11.112 to the person the Issuing Officer believes to be the owner of the equipment that the equipment has been seized and that the owner has the right to request a hearing to contest the seizure to the Appellate Hearing Board by filing a request for appeal with the Clerk of the Board of Supervisors within 15 days of the notice. The notice shall also state the equipment will be destroyed if no request for hearing is filed. If the Issuing Officer does not know who owns the equipment, the Issuing Officer shall advertise the seizure for three consecutive days in a newspaper of general circulation providing the same information as required by the notice. If no appeal is filed or if after a hearing the Appellate Hearing Board finds the equipment was used illegally, the Issuing Officer may destroy the equipment.

(d) All casino party licenses shall be issued for a maximum of five consecutive hours and will expire no later than two o'clock a.m. of the following day. Casino licenses are not renewable.

SEC. 21.404. APPLICATION.

(a) The applicant shall follow sections 21.104 to 21.117 of this code and the additional terms below.

(b) The completed application for a casino party license shall be submitted to the Issuing Officer at least 30 days before the event for which the license is requested.

(c) With the application the applicant shall submit:

(1) Proof of registration and approval with the State Division of Gambling Control.

(2) A complete list of prizes containing the fair market value of each prize that will be awarded. Once the license is approved the licensee shall award all prizes listed in the application and shall not make any additions or substitutions to the prize list.

(3) A statement that the person signing the application has read and is familiar with this chapter in its entirety and agrees to make a copy of this chapter available to all the organization's members who will be volunteering at the event.

(4) A copy of the agreement with the person who is supplying the gaming equipment.

SEC. 21.405. CASINO PARTY REGULATIONS.

(a) During the casino party the licensee shall have available for inspection by the Issuing Officer and all code compliance officials:

(1) A list containing the full names of each person from the organization to whom the license has been issued who are volunteering at the casino party, and

(2) A list containing the full names of each person employed by the company furnishing the casino equipment who are working at the event.

(b) No minors shall be allowed to participate in any casino party.

(c) No casino party shall be conducted between the hours of 2:00 a.m. and 6:00 a.m.

(d) All chips or script provided to attendees shall be dispensed free of charge and unrelated to any donation made by or that might be made by an attendee.

(e) No currency, cash or checks may be used or displayed at any gaming table or device.

(f) No chips or scrip may be redeemed for anything of value or for chances on a raffle or lottery for prizes. All prizes advertised must be awarded at the event and the participants must be present to win.

(g) All drawing tickets shall have the words "Free Drawing" printed on the tickets. The letters "Free Drawing" must be the same size or larger than any other letters printed on the ticket.

(h) Each person working at the casino party either on behalf of the licensee or the company furnishing the casino equipment shall wear on the outside of his clothing at chest height, an identification tag displaying the person's full name and title.

(i) The casino managers listed in the application must be present at all times during the operation of the casino party.

CHAPTER 5. SOLICITATIONS

ARTICLE 1. SOLICITORS

SEC. 21.501. DEFINITIONS.

For the purposes of this article the following definitions shall apply:

(a) A "certified farmer's market" means a location approved by the San Diego County Agricultural Commissioner where a "certified producer" may sell California agricultural products directly to consumers.

(b) A "certified producer" means a California farmer who is authorized by any county agricultural commissioner to sell agricultural products grown on land the producer controls, at a "certified farmer's market."

(c) "Goods" means any article of commerce, including merchandise, foodstuffs and publications other than "newspapers."

(d) "Interviewer" is a person who visits one or more residences or places of business or sets up a temporary location in a public place, to gather information through personal contact with individuals.

(e) "Newspaper" means a publication issued at regular and usually close intervals, especially daily or weekly, and commonly containing news, comment, features, and advertising.

(f) "Solicitor" means a person who travels from place to place, to public places or events to which the public is admitted, to sell, offer for sale, deliver or give away, any "goods" or any item redeemable for goods, for immediate or future delivery. A "solicitor" also includes an "interviewer." For the purpose of this article, "solicitor" does not include a person who only contacts individuals by telephone.

(g) "Solicitor's license" means the license authorizing a person to engage in the activities as a "solicitor" in the unincorporated areas of the County.

(h) "Temporary stand" means a table, booth, cart, vehicle or other portable or mobile device from which a "solicitor" sells and/or distributes goods.

SEC. 21.502. SOLICITOR'S LICENSE REQUIRED.

It shall be unlawful for a person, unless exempt under section 21.506, to engage in the activities of a solicitor in the unincorporated area of the County without having obtained a solicitor's license from the Issuing Officer.

SEC. 21.503. TERM OF LICENSE.

A solicitor's license shall be for a one year term unless the applicant requests a shorter term or the Issuing Officer in the exercise of discretion determines the license should be for less than one year. A solicitor's license may be renewed for one year within 30 days before it expires.

SEC. 21.504. ADDITIONAL REASONS FOR APPLICATION DENIAL.

(a) A solicitor's license is subject to sections 21.101-21.117 and any additional conditions in this chapter. In addition to the grounds for denying a new or renewal license provided in sections 21.108 and 21.109 respectively, the Issuing Officer may deny a new or renewal if the Issuing Officer determines:

(1) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of members of the public with whom a solicitor would likely come into contact with.

(2) The applicant has been convicted of any offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of members of the public with whom a solicitor would likely come into contact with.

(3) The applicant is addicted to any substance prohibited by the Uniform Controlled Substances Act (Health and Safety Code Section 11000 et seq.) unless the applicant is enrolled and successfully participating in a drug treatment program approved by the Court.

(b) If the applicant intends to sell or deliver any food and/or beverage item, the Issuing Officer shall not issue the applicant a solicitor's license unless the applicant has been issued a mobile food facility permit from the County Department of Environmental Health. If the applicant intends to set up a temporary stand to sell or deliver any food and/or beverage the Issuing Officer shall not issue the applicant a solicitor's license until the applicant has also obtained clearance from the County Department of Planning and Land Use that the temporary food stand is not prohibited by County zoning regulations.

SEC. 21.505. IDENTIFICATION CARD.

If the Issuing Officer grants a solicitor's license the Issuing Officer shall also issue an identification card that shows the licensee's name, address, physical description and the nature of the merchandise the licensee is authorized to sell or deliver and a current photograph of the licensee. The identification card shall show the expiration date of the license and shall contain a photograph of the licensee. The licensee shall prominently

display the identification card on the outside front of his clothing while engaged in the activity for which he received the solicitor's license. The licensee shall provide the identification card to any peace officer who requests to examine it.

SEC. 21.506. EXEMPTIONS.

The following persons are exempt from the requirement to obtain a solicitor's license:

(a) Students attending a public or private educational institution in San Diego County, in any of the grades K through 12 or attending a public or private college or university, raising funds for the school or a school sponsored activity;

(b) Persons with a fixed place of business in San Diego County, including merchants, farmers and ranchers, selling their own products;

(c) Certified Producers selling products at a certified farmer's market;

(d) Persons who sell their goods at a rented stall of a lawfully operated swap meet licensed under this code; or

(e) Persons who sell their goods at a nonprofit community event for which a permit has been issued under sections 21.201 et seq.

SEC. 21.507. EXEMPTION FROM FEES.

As provided in Business and Professions Code section 16102, a veteran of the United States Army, Navy, Marines or Air Force, honorably discharged or released from active duty under honorable conditions, may sell any goods he owns without having to pay a fee for a solicitor's license.

SEC. 21.508. HOURS OF BUSINESS.

No person shall engage in the activity as a solicitor from 8:00 p.m. until 8:00 a.m. local time except by appointment.

SEC. 21.509. SOLICITING PROHIBITED.

(a) It shall be unlawful for a solicitor to contact or attempt to contact any person at a residential or commercial property when there is a sign posted with letters at least 1/2 inch high that states, "No Solicitors, No Soliciting, Solicitation Prohibited" or any other similar language that indicates that solicitors are not welcome. As used in this section a residential property or commercial property includes all the land surrounding the residence or commercial facility.

(b) A solicitor has a duty before attempting to contact any person at a residential or commercial property to ascertain whether there is a sign as described in paragraph (a) above.

(c) It shall be unlawful a solicitor to remain on property after being asked to leave by any person legally occupying the property.

ARTICLE 2. CHARITABLE SOLICITATIONS

SEC. 21.551. PURPOSE.

The purpose of this article is to protect the public against fraud, deceit and imposition, and to foster transparency for all solicitations made by or on behalf of charitable organizations.

SEC. 21.552. DEFINITION.

For the purposes of this article the following definitions shall apply:

(a) "Charitable organization" means an organization devoted to a philanthropic, social service, benevolent, patriotic or religious purpose that has received an exemption from federal taxation from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code.

(b) "Contribution" means money, property, the loan of money or property, food, clothing or any other item having monetary value given or promised to a charitable organization.

(c) "Disclosure statement" means a written statement prepared by a charitable organization that identifies the organization, the reasons it is soliciting funds, its fund-raising expenses, whether the organization has tax-exempt status and whether contributions to the organization are tax deductible.

(d) "Donor" means the person to whom a "solicitation" regulated by this article is presented whether or not the person solicited makes or promises to make a contribution.

(e) "Solicitation" means:

(1) An oral or written request for a contribution to an actual or purported charitable organization made, transmitted, or distributed by any means; or

(2) An offer to sell a service, an item, or the right to attend a function or participate in an activity, when the offer refers to an actual or purported charitable purpose or charitable organization, to induce the recipient of the offer to purchase the service, item, or to attend or participate.

(f) "Solicitor" means any person who for pecuniary compensation or consideration solicits or purports to solicit contributions, for an actual or purported charitable organization and includes a paid employee of an actual or purported charitable organization.

(g) "Volunteer" means a person who assists a charitable organization to obtain contributions, but who receives no pecuniary compensation or consideration from the charitable organization or from any other person for obtaining contributions.

SEC. 21.553. COMPLETED SOLICITATION.

A solicitation is complete when presented to a donor whether or not the donor makes or promise to make a contribution.

SEC. 21.554. NO SOLICITATION WITHOUT REQUIRED DISCLOSURE.

(a) A charitable organization shall not authorize a person to conduct a solicitation on its behalf unless the organization has prepared a written disclosure statement that contains the following information in at least 10 point type.

(1) The name and address of the charitable organization on whose behalf the contribution is being requested. If the mailing address is a post office box, the charitable organization shall also provide its street address.

(2) The specific purpose for which the charitable organization intends to use the contribution.

(3) The percentage of the contribution that will be allocated to fund raising expenses. In cases where solicitors will be paid a set fee rather than a percentage of the total contributions, the statement shall disclose the total monetary amount allocated to fund-raising expenses.

(4) Whether or not the charitable organization for which a contribution is sought has tax exempt status under federal and/or State law.

(5) The percentage of the total contribution which may be deducted as a charitable contribution under federal and/or State law. If no portion is deductible, the written material shall state that no part of the contribution to the organization is tax deductible.

(b) A disclosure statement may be in the form of a brochure or other written solicitation provided that it complies with paragraph (a) above and does not contain misleading or inaccurate information.

(c) It shall be unlawful for a solicitor to make a solicitation to a donor without first providing the donor with a copy of the "disclosure statement" required by paragraph (a) above.

(d) It shall be unlawful for a charitable organization to allow a volunteer to present a solicitation on its behalf without providing the volunteer with a disclosure statement to present to any donor with whom the volunteer intends to meet.

SEC. 21.555. INITIAL SOLICITATION BY TELEPHONE.

If the a solicitor or charitable organization makes a solicitation to a donor by telephone the solicitor or charitable organization shall orally provide the donor with information required by section 21.554(a) and if the donor makes or promises to make a contribution the solicitor or charitable organization shall mail or personally deliver a disclosure statement to the donor.

SEC. 21.556. REGISTRATION REQUIRED.

A charitable organization intending to solicit contributions regulated by this article shall before presenting a solicitation, complete a registration form with the Sheriff that provides the following:

- (a) A copy of the disclosure statement required by section 21.554(a);
- (b) The full name, mailing and address and telephone number of any person who will receive any pecuniary compensation or consideration for soliciting contributions on the charitable organization's behalf. If the person identified is not an individual, the charitable organization shall also provide the full name of any individual who will supervise the solicitation and the full name of any individual who will be making the solicitation. If the person soliciting on the organization's behalf is required to register with the State the organization shall also provide proof the person is complying with all State law requirements.
- (c) The means by which the charitable organization intends to make the solicitations.
- (d) The beginning and ending dates for the proposed solicitations and the hours of the day when the solicitations will be made.
- (e) Proof of exemption from federal taxation under Internal Revenue Service Code section 501(c)(3).

SEC. 21.557. FINANCIAL RECORDS.

The financial records of a soliciting organization shall be maintained on the basis of generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board and shall comply with all State and federal laws and requirements.

SEC. 21.558. INAPPLICABILITY TO CERTAIN SOLICITATIONS.

This article shall not apply to a solicitation made by a charitable organization:

- (a) To its members, or
- (b) On the organization's premises, or
- (c) Conducting a legal bingo game under this code.

CHAPTER 6. JUNK YARDS AND MOTOR VEHICLE WRECKING YARDS

SEC. 21.601. PURPOSE.

Junk yards and motor vehicle wrecking yards may receive vehicles, vehicle parts and other personal property that have been stolen from the rightful owners. Junk yards and motor vehicles wrecking yards also pose potential hazardous to the community, because they are usually unsightly and likely to impact surrounding properties and they may also attract children or others who will not appreciate the hazards presented by these businesses. It is necessary to regulate junk yards and motor vehicle wrecking yards by requiring them to keep and maintain detailed records of items they buy to maximize recovery of stolen items and to prevent dealers from trafficking in stolen goods. It is also necessary to regulate the manner in which these businesses are carried out to protect the community from potential hazards. This chapter is to be construed to carry out these goals.

SEC. 21.602. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Dealer" means a person who operates a junk yard or a motor vehicle wrecking yard.
- (b) "Inoperative vehicle" means a motor vehicle that cannot be moved under its own power.

(c) "Junk" means secondhand or used: machinery, equipment, appliances, furniture, motor vehicle parts, tires, lumber, rope, bottles, pipe, wire, drums, scrap metal, construction material, packaging material, items made of, or containing wood, metal, paper, plastic, clay, brick, glass, porcelain, rubber, concrete, or other personal property.

(d) "Junk yard" means real property used for dismantling, salvage, outside storage, purchase, sale or exchange of junk. It is not an exception to this definition that a person intends or proposes to use the junk for some purpose.

(e) "Motor vehicle" has the same definition as the term "motor vehicle" in California Vehicle Code section 415.

(f) "Motor vehicle wrecking yard" means a place where wrecked or inoperative motor vehicles are stored, kept, parked, left, accumulated, exchanged, crushed, dismantled, sold, sold for parts, sold for scrap or for any other purpose. Any parcel or property made up of one or more contiguous parcels having three or more wrecked or inoperative motor vehicles shall be considered a motor vehicle wrecking yard and subject to the requirements of this chapter. An automotive repair dealer registered with the California Department of Consumer Affairs under Business and Professions Code section 9884 that temporarily stores inoperative or wrecked motor vehicles while the vehicles are being repaired, however, is not subject to this chapter.

(g) "Wrecked motor vehicle" means a motor vehicle that is damaged to such an extent that it cannot be operated safely on the highway.

SEC. 21.603. LICENSE REQUIRED.

It shall be unlawful for a person to operate a junk yard or a motor vehicle wrecking yard in the unincorporated area of the County without obtaining a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for any license required by this chapter. A person may operate a yard that is both a junk yard and motor vehicle wrecking yard, but is only required to obtain one license under this chapter. The license required by this chapter shall be subject to sections 21.101-21.117 of this code and this chapter. No person shall be eligible for a license under this chapter until he obtains a Major Use Permit from the County Department of Planning and Land Use, for the junk yard or motor vehicle wrecking yard, under applicable County zoning regulations.

SEC. 21.604. YARD REGULATIONS.

It shall be unlawful for any person to operate a junk yard or a motor vehicle wrecking yard in the unincorporated area of the County in violation of one or more of the following conditions:

(a) A junk yard or motor vehicle wrecking yard shall be operated entirely within an enclosed building or buildings or on property completely enclosed by a solid fence or wall at least six feet in height and constructed according to the requirements of this code. The County may grant an exception to this requirement on one or more sides of the facility pursuant to approval of the Major Use Permit for the yard if the operator can demonstrate that natural topographical features prevent access to the side of a facility for which an exception is sought, without the need for a wall or fence.

(b) The fence or wall required by paragraph (a) above shall be maintained in a neat, clean and safe condition and shall be painted, unless it is constructed of masonry or rust-proof metals.

(c) No junk yard or motor vehicle wrecking yard may have any advertising on its outside walls or fences, except that it may advertise in a space not to exceed six feet in height and 15 feet in length on each side of the outer wall of the business. The advertising, shall also comply with all other provisions of this code and any zoning regulations.

(d) The access gates for the yard shall open inwardly and the gates shall be kept closed when the yard is not open for business.

(e) No junk, wrecked or inoperative motor vehicles shall be piled or permitted to be piled in excess of the height of the enclosing fence or wall or be closer than three feet from an enclosing fence or wall. The California Fire Code or County Fire Code may further limit the height that certain items may be piled, may limit the width of piles or may require certain items to be further from a fence or wall than three feet. The Fire Codes may also require the operator to have aisles between items in the yard. The dealer shall be responsible to determine any Fire Code requirements and comply with them. The failure to comply with any Fire Code requirement is a violation of this section.

(f) Within 24 hours of acquiring a wrecked or inoperative motor vehicle or item of junk a dealer shall drain and remove all flammable or hazardous liquids and all gases from the vehicle or item of junk.

(g) The yard and all items in it shall be maintained at all times so that fire, health, law enforcement and building officials have access to and can inspect any junk, wrecked or inoperative motor vehicles in the yard.

SEC. 21.605. DEALER RECORDS.

(a) In addition to reports dealers may be required to prepare and maintain under State law a dealer shall complete a legible daily report, in duplicate, of any junk, inoperative or wrecked motor vehicles, the dealer acquires in the course of a day, on a form approved by the Sheriff or provided by the Sheriff at his cost. The dealer shall provide the daily report to the Sheriff by the close of the following business day. If some or all of the information required by this section is contained on a daily reporting form the dealer is required to prepare under State law, the dealer may provide the Sheriff with a copy of the State form or, if the State form contains only a portion of the information required by this section, the dealer may supplement the State daily reporting form by providing the additional information on the Sheriff's daily reporting form and providing both forms to the Sheriff. The daily reports required by this section shall contain the following information:

- (1) The seller's full name and current address,
- (2) The seller's identifying information. The only acceptable forms of identification for the purpose of this chapter are: a valid driver's license or identification card issued by any state of the United States that contains the full name, address, photograph and signature of the seller, or a valid passport issued by the United States, and
- (3) A complete and accurate description of the property, including serial numbers or other identifying marks, symbols, inscriptions, owner-applied numbers, manufacturer's name brand and model name and number. If the property does not contain any of the foregoing identifying marks and numbers, the description shall include the type, size, color and approximate weight of the property.

(b) When the dealer obtains the information from the seller to satisfy the requirements of paragraph (a)(1) and (2) above, the dealer shall also obtain from the seller:

- (1) A statement signed by the seller under penalty of perjury verifying that the seller is the owner of the property, or that the seller has the owner's consent to sell the property and the seller verifies the owner's full name and address, and
- (2) A legible thumbprint taken from seller.

(c) The dealer shall keep each daily report and the documents required by paragraph (b) above for two years and shall produce them at the request of any peace officer.

SEC. 21.606. SHERIFF'S RECORDS.

The Sheriff shall maintain a file of all dealer reports received pursuant to this chapter for two years and the reports shall be available for any peace officer of this State to inspect.

SEC. 21.607. RETENTION OF GOODS.

Except for second hand motor vehicles, a dealer shall hold all property the dealer acquires for 15 days after filing a report with the Sheriff that lists the property. During the holding period the dealer shall display the property during normal business hours and not allow the property to be cleaned, repaired, painted or modified in any way.

SEC. 21.608. HOLD ORDER FOR PROPERTY SUSPECTED OF BEING STOLEN.

When the Sheriff has probably cause to believe property in the possession of a dealer is stolen the Sheriff may place a 90 day hold on the property consistent with Business and Profession Code section 21609 and the provisions of section 21609 shall apply.

SEC. 21.609. LICENSE SUSPENSION OR REVOCATION.

In addition to the reasons for suspending or revoking a license issued pursuant to this chapter under section 21.112 the Sheriff may also suspend or revoke a dealer's license if the dealer, dealer's agents or employees:

- (a) Failed to comply with any provision of this chapter,
- (b) Failed to allow any inspection authorized under this chapter,
- (c) Is convicted of receiving stolen property, or
- (d) Committed fraud in the acquisition, sale or disposal of property.

CHAPTER 7. PAWNBROKERS AND SECONDHAND DEALERS

SEC. 21.701. PURPOSE.

Business and Professions Code sections 21625 et seq., regulating pawnbrokers and other secondhand dealers were enacted to "curtail the dissemination of stolen property and facilitate the recovery of stolen property." The State Legislature expressly recognized and authorized counties to adopt regulations for pawnbrokers and other secondhand dealers by ordinance provided the ordinance was not inconsistent with State law. The purpose of this chapter is to further the State Legislature's intent and to protect the citizens of San Diego County. This chapter is to be construed to carry out these goals.

SEC. 21.702. DEFINITIONS.

For the purposes of this chapter the following definitions shall apply:

(a) "Fixed place of business" means the building from which a business is continuously conducted from day to day and regularly kept open for the purposes of the business.

(b) "Pawnbroker" has the same definition as the term "pawnbroker" in Financial Code section 21000.

(c) "Secondhand dealer" has the same definition as the term "secondhand dealer" in Business and Professions Code section 21626 and 21626.5.

(d) "Tangible personal property" has the same definition as the term "tangible personal property" in Business and Professions Code section 21627.

SEC. 21.703. LICENSE REQUIRED.

No person shall conduct business as a pawnbroker or secondhand dealer in the unincorporated area of the County without obtaining a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for any license required by this chapter. A pawnbroker's license and a secondhand dealer's license are subject to sections 21.101-21.117 of this code and this chapter.

SEC. 21.704. FIXED PLACE OF BUSINESS REQUIRED.

No person shall be licensed as a pawnbroker or second-hand dealer by the Issuing Officer unless the person has a fixed place of business in the unincorporated area of the County.

SEC. 21.705. SHERIFF TO MAINTAIN REPORTS AND MAKE AVAILABLE FOR INSPECTION.

The Sheriff shall retain all daily reports pawnbrokers and secondhand dealers are required to provide pursuant to Business and Professions Codes sections 21628, 21629 and 21630 for two years. Any peace officer of this State and any Sheriff's license specialist shall have the right to inspect the reports.

SEC. 21.706. HOLDING PERIOD AND INSPECTION FOR TANGIBLE PERSONAL PROPERTY.

A pawnbroker or secondhand dealer shall hold all tangible personal property it acquires in the course of business for 30 days from the date the pawnbroker or secondhand dealer reports acquiring the property to the Sheriff under Business and Professions Code section 21628, 21629 and 21630. During the holding period any peace officer and any Sheriff's license specialist shall have the right to inspect the tangible personal property reported to the Sheriff. If the property subject to inspection is not held on the business premises during the holding period the pawnbroker or secondhand dealer shall make it available within one business day of any request to inspect.

CHAPTER 8. OUTDOOR ASSEMBLIES

SEC. 21.801. PURPOSE AND INTENT.

Unregulated outdoor events can endanger participants and attendees if the events do not provide adequate security, sanitary facilities, drinking water, first aid services, traffic control and other essential services. These events can also negatively impact area residents and businesses. This chapter provides for regulation of events expected to be attended by 500 persons or more to protect the health and safety of attendees, participants, neighbors and the general public. Events attended by less than 500 persons may be subject to other chapters of this code depending on the nature of the event.

SEC. 21.802. DEFINITION.

"Outdoor assembly" means an outdoor event to which members of the public are invited or admitted and which the event organizer can reasonably expect the total number of attendees over the course of the event will be 500 persons or more. This section, however, does not apply to an event:

- (a) Conducted by the owner or tenant of a permanent facility for which the County has issued a use permit and the use permit authorizes the owner or tenant to conduct an outdoor assembly,
- (b) Conducted by a public agency on property it owns or controls, which is authorized pursuant to a permit, license, or lease to conduct the event, or
- (c) For which a permit has been issued pursuant to Title 2, Division 1, Chapter 2 of this code.

SEC. 21.803. LIMITS FOR EVENT.

An outdoor assembly license shall only be granted for consecutive days and no outdoor assembly license shall be for more than five days.

SEC. 21.804. LICENSE REQUIRED.

No person shall conduct an outdoor assembly as defined in Section 21.802 in the unincorporated area of the County unless a license has been obtained pursuant to this chapter. The Sheriff shall be the Issuing Officer for any license required by this chapter. An outdoor assembly license is subject to sections 21.101-21.117 and this chapter.

SEC. 21.805. APPLICATION.

An application for an outdoor assembly license shall be submitted on a form provided by the Issuing Officer at least 60 days before the proposed event.

SEC. 21.806. SUPPLEMENTS TO APPLICATION.

Every application shall be accompanied by the following:

(a) A plot plan showing:

(1) Each property on which the event, event parking, event staging and other incidentals uses for the event will occur.

(2) Each property within 700 feet from the exterior boundaries of each property where the event, event parking, event staging and other incidental uses for the event will occur.

(3) The location of all: existing structures, all structures to be erected, including booths, portable lavatories, stages, water fountains, medical and first aid stations, security command center, parking areas and trash disposal facilities, on the property shown in response to subparagraph (1) above.

(4) The pathways for pedestrian access on the property shown in response to subparagraph (1) above.

(5) The routes for vehicle and pedestrian access in the area surrounding the property shown in response to subparagraph (1) above.

(b) A written statement from the owner or person in control of each property shown in paragraph (a)(1) above, authorizing the use of the property for the outdoor assembly.

(c) Proof of insurance coverage pre-approved by the Risk Management Division of the County Human Resources Department (Risk Management).

SEC. 21.807. MANAGER REGISTRATION.

(a) An outdoor assembly for which a license is required by this chapter shall have an adult manager present at the event at all times when the event is being conducted. No person shall act as the manager of an outdoor assembly unless he has registered with and been approved by the Issuing Officer.

(b) No person shall employ a manager of an outdoor assembly unless the Issuing Officer has approved the manager's registration.

SEC. 21.808. SECURITY PERSONNEL.

An outdoor assembly shall have a minimum of four security personnel in attendance at all times for up to 500 attendees. An outdoor assembly that is projected to exceed 500 attendees at any time shall have present a minimum of one additional security person for each, up to 100 additional attendees, projected to be present at the event. The Issuing Officer may, as a condition to issuing the license for the assembly require more than the minimum security personnel, if the Issuing Officer determines that additional security personnel are necessary to protect the health and safety of attendees and/or the community.

SEC. 21.809. PERSON INTOXICATED OR UNDER THE INFLUENCE OF DRUGS.

It shall be unlawful for any person who is intoxicated or under the influence of any controlled substance to be present at any outdoor assembly. No person who conducts or assists in conducting an assembly shall allow a person who is intoxicated or under the influence of a controlled substance to be admitted to or to remain at an outdoor assembly.

SEC. 21.810. PEACE OFFICERS AND REGULATORY OFFICIALS TO BE ALLOWED TO INSPECT.

Any peace officer, fire official, health or safety inspector, County code enforcement officer or any other public officer having regulatory responsibility for any activity occurring at an outdoor assembly shall be allowed access to the property where the assembly is occurring for the purposes of conducting an inspection.

SEC. 21.811. ADDITIONAL APPROVALS.

An applicant for an outdoor assembly license shall be responsible to obtain all other required licenses, permits, and approvals from all federal, State and local entities before a license for an outdoor assembly may be granted.

SEC. 21.812. SEPARATE LICENSES NOT REQUIRED.

(a) If any of the following activities are a part of an event for which the County issued an outdoor assembly license and take place on the same property as the event, a separate license for the activity is not required:

- (1) Public dances, regulated under sections 21.2201 et seq.,
- (2) Teen-age dances, regulated under sections 21.2301 et seq.,
- (3) Entertainment, regulated under sections 21.2101 et seq., and
- (4) Temporary stands, regulated under sections 21.501 et seq.

(b) Notwithstanding paragraph (a) above, no music of any kind shall be allowed at an outdoor assembly between the hours of 2 a.m. and 6:30 a.m.

SEC. 21.813. INSURANCE.

An applicant for an outdoor assembly license shall provide the Issuing Officer with proof of comprehensive general liability insurance coverage that insures the licensee, all entertainers, vendors, solicitors and all other event participants against loss resulting from liability for damages for bodily injury or death, and property damage arising from the event. The insurance policy shall be issued by a company authorized to transact insurance business in the State of California and shall name the County of San Diego and its officers, employees and agents as additional insureds. Risk Management shall determine the amount of insurance necessary based upon its determination of the risks presented by the event.

SEC. 21.814. SITE RESTORATION.

If the licensee fails to clean and restore any property the County owns, leases or has an easement over to its pre-event condition the County may clean and restore the property and require the licensee to pay the costs the County incurs. The County may consider the licensee's failure to clean and restore any property, including property owned by others, after the event in denying a subsequent license application or conditioning a grant of a subsequent license upon posting security in an amount the County determines is appropriate based upon the licensee's prior failure.

SEC. 21.815. ADDITIONAL GROUNDS FOR DENYING LICENSE.

(a) In addition to denying a license based upon the criteria in section 21.108 the Issuing Officer may deny a license for an outdoor assembly if it determines the outdoor assembly will cause one or more of the following that the applicant cannot likely mitigate against:

(1) An increase of the amount of pedestrian and vehicular traffic that will present a threat to public health or safety to residents and others in the vicinity where the event is proposed to occur.

(2) The event will require diverting a significant number of law enforcement personnel from their normal duties that will likely prevent reasonable law enforcement protection to the community in the area where the event is proposed.

(b) The Issuing Officer may also deny a license for an outdoor assembly if the applicant failed to abide by the terms of a previously issued outdoor assembly license and is unable to satisfactorily demonstrate that it would comply with the terms of an outdoor assembly license if the license were to be issued.

(c) If the Issuing Officer denies an applicant a license for an outdoor assembly it shall follow the procedures under section 21.110. An applicant denied a license under this chapter may appeal by following the appeal procedure provided in sections 21.110(a) and 21.116.

(d) If the Issuing Officer determines the applicant is entitled to the license, the Issuing Officer shall issue the license within 30 days after it received a completed application.

SEC. 21.816. LICENSE CONDITIONS.

The Issuing Officer may grant an outdoor assembly license subject to certain conditions as it finds necessary to accomplish the purposes of this chapter.

SEC. 21.817. VIOLATION -- LICENSE SUSPENSION AND REVOCATION.

If the Issuing Officer determines a licensee is not complying with license conditions or is conducting an outdoor assembly in a manner that threatens the health or safety of any person, the Issuing Officer may immediately revoke the license, suspend the licensee's right to operate during certain hours or on certain days and/or may allow the licensee to continue to operate subject to additional conditions. The Issuing Officer's decision under this section to revoke, suspend or impose a condition to the license is not appealable.

CHAPTER 9. AMUSEMENT DEVICES AND ESTABLISHMENTS

SEC. 21.901. DEFINITIONS.

For the purpose of this chapter the following terms shall be defined as follows:

(a) "ABC license" means a license to sell alcoholic beverages issued by the State Department of Alcoholic Beverage Control.

(b) "Alcohol prohibited area" means a designated area, in an amusement establishment that has been granted an ABC License, where consumption of an alcoholic beverage is prohibited.

(c) "Amusement device" means a machine, or apparatus, the operation or use of which is controlled, allowed or made possible by depositing or placing a coin, plate, disk, slug or key into a slot, crevice or other opening or by paying a fee for use as a game, contest or amusement of any description, the use or possession of which is not prohibited by any law of the State of California.

(d) "Amusement establishment" means a commercially operated establishment having five or more amusement devices.

(e) "Minors prohibited area" means a restricted area in an amusement establishment that prohibits the entry or presence of persons under the age of 21.

SEC. 21.902. LICENSE REQUIRED.

It shall be unlawful to operate an amusement establishment unless a license has been issued as required by section 21.101 et seq. of this code. The Sheriff shall be the Issuing Officer for any license required by this chapter.

SEC. 21.903. ALCOHOLIC BEVERAGES PROHIBITED.

(a) It shall be unlawful for the proprietor, manager, or employee of any amusement establishment to allow the consumption of any alcoholic beverage in an amusement establishment unless:

(1) The establishment has an ABC license type 61, 42 or 48.

(2) The establishment has an ABC license type 41 or 47, the establishment has designated an area where alcohol is prohibited and:

(A) The alcohol prohibited area is separated from the area where alcoholic beverages may be consumed, and

(B) All amusement devices in the amusement establishment are located in the alcohol prohibited area,

(C) The alcohol prohibited area is partitioned off with walls of no less than 8' high, with not more than two combination entrances/exits that are no wider than 44" or minimum allowable per Uniform Fire Code, and

(D) The alcohol prohibited area is not part of or a path to or from public restrooms and is insulated from the general traffic to and from the area where alcoholic beverages may be consumed, and

(E) Each entrance to an alcohol prohibited area is clearly posted with a sign no less than 18 by 24 inches, on a white background and reading as follows:

"Warning - Alcoholic beverages are prohibited in this area. Violation is a misdemeanor per San Diego County Code Section 21.903."

(3) The establishment has an ABC license type 41 or 47, the establishment has designated a minors prohibited area and the entrance to the minors prohibited area is clearly posted with a sign at least 18 by 24 inches, on a white background, reading as follows: "Warning -- No person under 21 years of age allowed in minors prohibited area. Violation is a misdemeanor per San Diego County Code Section 21.903."

(b) It shall be unlawful for:

(1) Any person to possess any alcoholic beverage in an alcohol prohibited area when the area is posted as required by Section 21.903(a)(2)E.

(2) Any person under 21 years of age to enter or be present in an alcohol prohibited area if the area is posted as required by section 21.903(a)(3).

(3) The proprietor, manager or employee of a licensed amusement establishment to allow any person under 21 years of age to enter in or be present in an alcohol prohibited area.

SEC. 21.904. PERSONS INTOXICATED OR UNDER THE INFLUENCE OF DRUGS PROHIBITED.

It shall be unlawful for any person to be in any establishment licensed pursuant to this chapter who is:

(a) Under the influence of any controlled substance or

(b) Is intoxicated.

SEC. 21.905. OPERATION OF ESTABLISHMENT.

The proprietor, manager or employee of any licensed amusement establishment shall not allow any lewd or disorderly conduct, loud or unreasonable noise, fighting or profane language within the establishment and shall not allow any person under the influence of a controlled substance or alcoholic beverage to remain in or around the establishment or in any surrounding area of the establishment under the establishment's control.

SEC. 21.906. LICENSE FEE.

An application for an amusement establishment license shall be accompanied by the fee set forth in the San Diego County Sheriff's Licensing Fee Ordinance.

CHAPTER 10. PERMANENT AMUSEMENT RIDES AND GO-CART CENTERS

SEC. 21.1001 PURPOSE AND INTENT.

Permanent amusement rides and go-cart centers offer recreational opportunities to the public, but if operated improperly pose the risk of serious bodily injury or death. The State of California provides compliance standards for permanent amusement rides, but not for go-cart centers. This chapter establishes compliance standards for go-cart centers and regulations to protect users of both types of facilities.

SEC. 21.1002. DEFINITIONS.

For the purposes of this chapter the following definitions shall apply:

(a) "Go-cart" means a self-propelled motorized vehicle that is designed to be driven on a go-cart track where the driver has control over acceleration, deceleration, stopping and steering of the vehicle.

(b) "Go-cart center" means an establishment that allows members of the public to drive go-carts on a fixed and defined track.

(c) "Go-cart track" means a fixed and defined course designated for the operation of go-carts.

(d) "Permanent amusement ride" has the same definition as "permanent amusement ride" in Labor Code section 7921(a).

(e) "Permanent amusement ride center" means an establishment that operates one or more permanent amusement rides for use by members of the public.

SEC. 21.1003. PERMIT REQUIRED.

A permit to operate a permanent amusement ride center or go-cart center is subject to 21.101-21.117 and this chapter. No person shall operate an amusement center or go-cart center in the unincorporated area of the County without a permit issued by the Issuing Officer. The Sheriff shall be the Issuing Officer for any permit required by this chapter. An applicant for permanent amusement ride center permit or go-cart center permit shall submit an application on a form provided by the Issuing Officer and fulfill the additional requirements of this chapter.

SEC. 21.1004. ADDITIONAL REQUIREMENTS FOR PERMANENT AMUSEMENT RIDE CENTERS.

An applicant for a permanent amusement ride center permit shall provide with the application, verification that all amusement rides at the center have passed an initial inspection by the State of California as required by Title 8 California Code of Regulations (CCR) section 344.8. Once the permit is issued, with the renewal application, the licensee shall submit verification that the State has re-inspected all rides or a certificate of compliance accepted by the State pursuant to 8 CCR 344.7.

SEC. 21.1005. ADDITIONAL REQUIREMENTS FOR GO-CART CENTERS.

An applicant for a go-cart center permit shall provide with the initial application and at each renewal application:

(a) Certification by a California licensed engineer that he has examined and tested the go-cart track of the facility and found that it complies with the following standards:

- (1) The paths do not cross at any location.
- (2) Surfaces are hard and smooth, free of ruts, holes and bumps.
- (3) Loading and unloading areas are clearly designated, properly graded and free of tripping hazards.
- (4) Go-cart operations are surrounded by a fence or other suitable barricade designed to control non-patron access to the facility and to each go-cart track.
- (5) Access points are clearly marked.
- (6) Gates or other suitable controls are provided at the entrances and exits.
- (7) Fences or barricades are at least 42 inches high, have no opening that will pass a four inch ball and have self closing, self-latching, full height, gates at all entrances and exits.
- (8) The facility can be operated safely if the go-carts are operated at full speed.

(b) A statement submitted under penalty of perjury from a California registered automobile repair dealer identifying each go-cart separately by an identifying number and certifying the dealer has examined the go-cart, found it to be in good working order and that it is equipped with:

- (1) A system to restrain the occupants and roll over protection to retain the driver and/or passenger in the go-kart in the event of collision or roll over;
- (2) Padding for component parts including but not limited to headrests and steering wheels;
- (3) Clearly marked brake and throttle pedals.

(c) Operational rules for:

- (1) Daily inspection of each go-cart;
- (2) Maintenance of go-carts;
- (3) Maintenance of the facility;
- (4) Fueling of the go-carts;
- (5) Fuel storage;
- (6) Patrons using the facility, including minimum height for go-cart drivers based upon manufacture's standards.

SEC. 21.1006. EMPLOYEE IDENTIFICATION CARD.

(a) No operator of a permanent amusement ride center or go-cart center shall employ any person unless the person been issued an employee identification card from the Issuing Officer pursuant to this chapter. An applicant for an employee identification card shall submit an application on a form provided by the Issuing Officer. The applicant shall not be approved for an identification card under this chapter if:

- (1) The applicant is under the age of 18 years.
- (2) The applicant has within five years preceding the date of application been convicted of any felony involving theft, fraud, violence, sex with a minor, sale of any controlled substance on Schedules I-V of the Health and Safety Code or any felony involving moral turpitude.
- (3) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290.
- (4) The applicant has been convicted of any offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590.
- (5) Suffers from alcoholism, drug addiction or any other physical or mental disorder, condition or disease that the Issuing Officer determines renders the applicant unfit to be approved.
- (6) The applicant has made a false statement or representation in the application.
- (7) The applicant within five years preceding the date of application was employed at a facility similar to the type of facility subject to this chapter and committed an unsafe or illegal act that endangered any person.

(b) An identification card issued under this section shall be renewed annually. The applicant shall apply for renewal at least 40 days before the expiration and no sooner than 60 days before expiration. The identification card is renewal upon the same terms as provided in paragraph (a) above.

(c) An employee of a permanent amusement ride center or go-cart center shall display the identification card while working and shall provide the card to any peace officer upon request.

(d) The Issuing Officer may suspend or revoke the identification card if he determines any of the grounds exist that would have justified denying issuance of the identification card or if the employee commits or illegal act while employed at a center subject to this chapter that endangers any person.

(e) The Issuing Officer shall grant or deny an applicant an identification card within 30 days of receiving a completed application. If the Issuing Officer denies an applicant an identification card or suspends or revokes the card the Issuing Officer shall proceed under section 21.110 or section 21.112 respectively. An applicant denied an identification card or whose card is suspended or revoked shall have the appeal rights under sections 21.113-21.116.

SEC. 21.1007. INSURANCE.

An applicant for a permanent amusement ride center permit or go-cart center permit shall provide proof of commercial general liability insurance in an amount not less than \$1,000,000 for injury or death to persons arising out of the use of a permanent amusement ride or go-cart. It shall be unlawful for any person to operate a permanent amusement rider center or go-cart center without the insurance required by this section being in full force and effect.

CHAPTER 11. DISTRIBUTION OF MERCHANDISE COUPONS

SEC. 21.1101. DEFINITIONS.

For the purpose of this chapter the following definitions shall apply:

(a) "Merchandise coupon" means any coupon, certificate, ticket, book, card or passbook for which the holder can obtain goods, wares, merchandise or services at a discounted price.

(b) "Sell" means to sell, offer to sell, solicit the sale of, take orders for, give away, offer to give away, distribute or deliver, in exchange for payment of any kind.

SEC. 21.1102. PERMIT REQUIRED.

It shall be unlawful for any person to sell a merchandise coupon, which provides for acquisition of goods, wares, merchandise or services at less than 75% of their retail value from a business located in the unincorporated area of the County without a permit from

the Issuing Officer. The Sheriff shall be the Issuing Officer for any permit required by this chapter.

SEC. 21.1103. BOND REQUIRED.

An applicant for a permit to distribute merchandise coupons shall furnish the Issuing Officer with a bond in the amount of \$5,000. The bond required by this section shall be in a form approved by the County and shall be executed by the applicant as principal and by a corporate surety authorized to transact business as a surety insurance company in the State of California. The surety bond shall provide as a condition that any person injured by any misrepresentation, fraud, breach of contract or failure or refusal to deliver any goods as represented, or render any services, in whole or in part, may recover against the bond for any damages suffered, together with reasonable attorney's fees. The bond shall remain in effect for at least 90 days following the last date upon which any merchandise coupon may be redeemed.

SEC. 21.1104. PERMITTEE REGULATIONS.

(a) No permittee engaging in an activity described in section 21.1102 shall make any statement, representation or advertisement, orally or in writing:

(1) That a person has won any drawing or contest, unless the person knowingly entered and won a drawing or contest, or

(2) That the County or any County official, department, officer or employee approves the activity.

(b) A permittee engaging in an activity described in section 21.1102 shall before selling a merchandise coupon, provide the intended recipient with the permittee's name and the name and address of the person the permittee represents.

(c) No person permittee shall sell any merchandise coupon unless it contains the permittee's name, address and telephone and a copy of the merchandise coupon has first been provided to the Issuing Officer.

CHAPTER 12. FIREARMS DEALERS.

SEC. 21.1201. PURPOSE AND INTENT.

California Penal Code sections 12070-12083 regulate the sale of firearms and provide that the duly constituted licensing authority of a county shall accept applications for and may grant licenses permitting licensees to sell firearms at retail within its jurisdiction. This chapter appoints the Sheriff as the licensing authority for retail firearms sales in the

unincorporated area of the County and implements these sections of the Penal Code applicable to the County.

SEC. 21.1202. DEFINITIONS.

For the purposes of this chapter the following definitions shall apply:

- (a) "Firearm" means any device defined as a firearm in Penal Code section 12001.
- (b) "Firearms dealer" means a person who meets the requirements of Penal Code section 12071(a)(1) and to whom a license has been issued pursuant to this chapter.
- (c) "Firearms dealer employee" means a person who works for a firearms dealer as an agent, employee or representative.

SEC. 21.1203. LICENSE REQUIRED.

The licensing authority for firearm dealers in the unincorporated area of the County is the Sheriff. It shall be unlawful for any person to sell, lease or transfer a firearm in the unincorporated area of the County without a license issued by the Sheriff pursuant to Penal Code section 12071. This section shall not apply to a firearms transaction excluded under Penal Code section 12070. A person requesting a license under this chapter shall submit an application on a form provided by the Sheriff. A firearms dealer's license is governed by sections 21.101-21.117 and any additional conditions in this chapter.

SEC. 21.1204. MINIMUM AGE FOR FIREARMS DEALER.

The minimum age to be a firearms dealer is 21.

SEC. 21.1205. ADDITIONAL GROUNDS FOR DENIAL OF LICENSE.

In addition to the grounds for denial of a license under section 21.108 the Sheriff may deny a firearms dealer's license if the dealer fails to meet any requirement under Penal Code section 12071 or if the Sheriff determines the applicant:

- (a) Is disqualified from owning or possessing a firearm under federal, State or County laws or regulations.
- (b) Has within five years preceding the date of the application been convicted of any offense relating to the manufacture, sale, possession, use or registration of any firearm or any "dangerous weapon" or "deadly weapon," as those terms are defined under federal law, or the law of any state.

SEC. 21.1206. CLEARANCE FOR FIREARMS DEALER EMPLOYEE.

(a) No person shall be employed as an employee of a firearms dealer without a written clearance from the Sheriff. An employee of a firearms dealer is required to renew the written clearance from the Sheriff annually.

(b) A person seeking to be employed by a firearms dealer shall submit fingerprints and complete a form provided by the Sheriff. A person requesting clearance under this section shall be subject to investigation under section 21.107. The Sheriff may deny the clearance based upon any of the grounds in sections 21.108 and 21.1205. The Sheriff shall issue or deny the clearance in writing within 30 days after a completed request for clearance has been submitted. The Sheriff may suspend or revoke a person's clearance under this section on any of the grounds for which a license or permit may be suspended or revoked under section 21.112.

(c) It shall be unlawful for a firearms dealer to employ any person who does not have a current clearance from the Sheriff to be a firearms dealer employee.

SEC. 21.1207. NO TRANSACTIONS AT UNAUTHORIZED LOCATIONS.

Except as provided in Penal Code section 12071(b)(1)(B) and (C), a firearms dealer shall only conduct firearms transactions at the location specified in the license.

SEC. 21.1208. TRANSACTION RECORDS AND INSPECTION.

A firearms dealer shall maintain all firearms transaction records required by federal and State law and have them available for inspection. During business hours, a firearms dealer shall allow any Sheriff's Department employee and any peace officer to inspect firearms transaction records, firearms, firearm accessories and all places where transaction records, firearms and firearm accessories are stored.

SEC. 21.1209. COMPLIANCE WITH REQUIREMENT FOR SECONDHAND GOODS DEALERS.

A firearms dealer licensed under this chapter who acquires a secondhand or used firearm for resale shall comply with sections 21.701-21.706 and State law requirements for acquisition and sales of secondhand goods.

CHAPTER 13. SWAP MEETS

SEC. 21.1301. PURPOSE.

Business and Professions Code sections 21660 et seq. impose reporting requirements on swap meet operators and vendors, designed to assist law enforcement agencies in tracing and recovering stolen property. State law, however, recognizes that land use and zoning issues created by swap meets are matters of local concern. This chapter provides for licensing of swap meets and adopts reasonable regulations necessary to limit impacts on surrounding properties and residents and to protect the health and safety of swap meet attendees.

SEC. 21.1302. DEFINITIONS.

For the purposes of this chapter the following definitions shall apply:

(a) "Explosives" has the same meaning as the term "explosives" in Health and Safety Code section 12000.

(b) "Nonprofit organization" means a nonprofit organization that is exempt from taxation pursuant to sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code.

(c) "Operator" has the same meaning as the term "operator" in Business and Professions Code section 21661(d).

(d) "Sale" includes barter, trade, exchange or sale.

(e) "Swap meet" has the same meaning as the term "swap meet" in Business and Professions Code section 21661(a), (b) and (c).

(f) "Vendor" has the same meaning as the term "vendor" in Business and Professions Code section 21661(e).

SEC. 21.1303. LICENSE REQUIRED.

(a) Except as provided in subsection (b) below, no person shall operate a swap meet in the unincorporated area of the County without an operator's license issued by the Issuing Officer. The Sheriff is the Issuing Officer for any license required by this chapter. An operator's license is governed by sections 21.101-21.117 and any additional conditions in this chapter.

(b) An operator's license is not required for the following:

(1) An event conducted by nonprofit organization solely for fundraising purposes where the proceeds are not shared with or paid to any other person and the nonprofit organization does not conduct more than one swap meet in a 12 month period, or

(2) An event where the only items offered for sale are (A) motor vehicles, (B) trailers or (C) vehicle accessories or vehicle parts usable for a motor vehicle eligible for vehicle registration under Vehicle Code section 5004 and items of memorabilia or history, or both, related to these vehicles.

SEC. 21.1304. ADDITIONAL REASONS FOR DENIAL OF LICENSE AND LIMITATIONS ON LICENSE.

(a) In addition to the grounds for denying a new license under section 21.108 or a renewal license under section 21.109 the Issuing Officer may deny a license under this chapter if the Issuing Officer determines the operation of the swap meet:

(1) Will cause an increase in the amount of pedestrian and/or vehicular traffic that will likely present a threat to public health or safety to event attendees, participants, area residents or others in the vicinity where the event is proposed to occur, or

(2) Will require diverting a significant number of law enforcement personnel from their normal duties that will likely prevent reasonable law enforcement protection to the community in the area where the swap meet is proposed.

(b) The Issuing Officer may also deny a license if the applicant violated this code or State law while operating a swap meet previously and is unable to demonstrate to the satisfaction of the Issuing Officer that the applicant would not violate this code or State law if the Issuing Officer issued a license for the swap meet.

(c) The Issuing Officer may grant the license but limit the days and/or hours of operation of the swap meet to protect residents of surrounding properties from unreasonable impacts.

SEC. 21.1305. TRADING AREA.

Swap meet activities shall only be conducted in a building, structure, or other area enclosed by a permanent fence sufficient to enable the operator to control ingress and egress of persons and merchandise.

SEC. 21.1306. INSPECTION BY ENFORCEMENT OFFICIALS.

All items offered for sale at any swap meet, including an event that does not require an operator's license as provided by section 21.1303(b) shall be arranged so that any peace officer, Sheriff's license specialist, building inspector, fire official, health and safety

inspector or other enforcement official may have access to inspect the items during the hours the swap meet is operating.

SEC. 21.1307. HOURS AND DAYS OF OPERATION.

A swap meet shall not be open for business before 6:00 a.m. or after 6:00 p.m. and no swap meet attendee shall be admitted to a swap meet later than one hour before closing time. No swap meet shall be conducted on December 25, Labor Day, Thanksgiving Day, and on other times prohibited under the terms of the license.

SEC. 21.1308. PROHIBITED TRANSACTIONS AND NOTICE.

It shall be unlawful for any person to sell firearms, ammunition or explosives at a swap meet. The operator of a swap meet shall post a notice in letters at least 1/16th of an inch high, in a conspicuous place, near each entrance to the swap meet stating the following in the English language: "NOTICE. It is illegal to exchange, barter, trade or sell firearms, ammunition or any explosives at a swap meet."

CHAPTER 14. STORAGE OF SPRAY PAINT, MARKER PENS AND GLASS ETCHING PRODUCTS

SEC. 21.1401. PURPOSE AND INTENT.

Graffiti and vandalism cause blight and create unnecessary expense for County residents and public entities. Aerosol spray paint and permanent marker pens are the main instruments used by individuals who perpetrate graffiti, and glass etching products are frequently misused to damage and deface property. Because these products are often stolen by persons who intend to use them illegally this chapter requires retail establishments in the unincorporated area of the County to secure these products to diminish theft.

SEC. 21.1402. STORAGE OF SPRAY PAINT, MARKER PENS AND GLASS ETCHING PRODUCTS.

A retail establishment in the unincorporated area of the County that sells (a) aerosol spray paint cans, (b) permanent marker pens with tips exceeding four millimeters in width or (c) glass etching products shall store these products in an area not accessible to the public without employee assistance. As used in this section glass etching products" means any caustic cream, gel, liquid or solution capable, by means of a chemical action, of defacing, damaging or destroying hard surfaces.

CHAPTER 15. REGULATION OF AVOCADO HANDLERS

SEC. 21.1501. PURPOSE.

California Food and Agricultural Code sections 45031-45042 were enacted to curtail statewide avocado thefts. These sections require a person who possesses more than 40 pounds of avocados to carry proof of ownership to enable State and local officials to detect avocado theft. Section 45042 also allows a county to adopt additional requirements to protect a local avocado industry. Because more avocados are produced in San Diego County than any other county in California this chapter provides additional requirements for avocado handlers to protect the San Diego County avocado industry.

SEC. 21.1502. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Commercial quantity of avocados" means a quantity of avocados weighing more than 40 pounds, excluding the container.

(b) "Commissioner" means the San Diego County Agricultural Commissioner and employees of the San Diego County Department of Agriculture acting on the Commissioner's behalf.

(c) "Handler" means a person who grows, transports, distributes or sells avocados at wholesale or retail in San Diego County.

SEC. 21.1503. HANDLER'S CERTIFICATE.

In addition to any requirements under Food and Agriculture section 45031, a handler in possession of a commercial quantity of avocados in San Diego County, other than at the location where the avocados were produced, shall have in his possession a "handler's certificate" that contains the following information:

(a) The handler's name, address, and telephone number,

(b) The date the handler acquired the avocados,

(c) The name, address and telephone number of the person from whom the handler acquired the avocados,

(d) If the handler is not the owner of the avocados, the name, address and telephone number of the owner,

(e) If the handler is transporting the avocados, the license number of the vehicle in which the avocados are being transported, the license number of the driver of the vehicle, the location from which the avocados were picked up and the location to which the avocados are being transported.

(f) The variety and quantity of avocados in the handler's possession.

SEC. 21.1504. RETAINING THE HANDLER'S CERTIFICATE.

A person who is required to have a handler's certificate under section 21.1503 shall retain the handler's certificate for one year from the date the handler acquired the avocados. A handler who is required to retain a handler's certificate under this section shall produce it at the request of the Commissioner or any peace officer.

SEC. 21.1505. PRESENTATION OF HANDLER'S CERTIFICATE.

Any peace officer who reasonably believes that a person is illegally transporting a commercial quantity of avocados in San Diego County may stop the person and inspect the avocados, the Proof of Ownership required by Food and Agriculture section 45031 and the handler's certificate.

SEC. 21.1506. SEIZURE AND IMPOUNDMENT.

If the Commissioner or a peace officer reasonably believes that a person is not in legal possession of a commercial quantity of avocados, he may seize the avocados without a warrant. A peace officer who seizes avocados under this section shall take custody of the avocados and turn custody of the avocados over to the Commissioner or the Sheriff. After obtaining custody of the avocados the Commissioner or the Sheriff shall provide for the care and safekeeping of the avocados.

SEC. 21.1507. INVESTIGATION AND RELEASE TO OWNER.

The Commissioner or Sheriff may investigate to determine the owner of avocados seized pursuant to this chapter. The custodian shall release the avocados to the owner upon receiving proof of ownership and being reimbursed for the costs incurred to store the avocados.

SEC. 21.1508. DISPOSITION OF UNCLAIMED AVOCADOS.

If the avocados seized under this chapter are not released to the owner after being held for 72 hours the custodian may sell the avocados on the owner's behalf at fair market value or if the custodian determines that sale is not practicable, the custodian may donate the avocados to a nonprofit charitable organization. If the avocados are unfit for human consumption the custodian may destroy them. The proceeds derived from the sale of the

avocados shall be held by the custodian for at least six months, during which time the owner of the avocados may submit proof of ownership and receive the proceeds after reimbursing the custodian for the costs incurred to store and sell the avocados. After retaining the proceeds for at least six months, the custodian shall deposit the proceeds in the County General Fund.

SEC. 21.1509. EXEMPTION.

This chapter does not apply to avocados exempt under Food and Agriculture Code section 45036.

SEC. 21.1510. UNLAWFUL TO PROVIDE FALSE INFORMATION.

It shall be unlawful for any person to:

- (a) Provide false information in a handler's certificate, or
- (b) Alter any information in a handler's certificate.

CHAPTER 16. CABLE TELEVISION SYSTEMS

SEC. 21.1601. PURPOSE AND INTENT.

The County has issued licenses to cable television operators pursuant to Government Code sections 53066 et seq. Under the California Digital Infrastructure and Video Competition Act of 2006, (Division 2.5 of the Public Utilities Code, commencing with section 5800), which became effective January 1, 2007, licenses the County issued will not be renewable after January 1, 2008. Counties will no longer issue cable television licenses and the Public Utilities Commission will issue State franchises to cable television operators and other video service providers. This chapter regulates cable television operators continuing to operate under County licenses and video service providers who have obtained a franchise from the State, to the extent they are subject to County regulation.

SEC. 21.1602. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Cable Act" means the federal "Cable Communications Policy Act of 1984" (47 U.S.C. § 521 et seq.), as amended and modified by legislation such as the federal "Cable Television Consumer Protection and Competition Act of 1992" and the federal "Telecommunications Act of 1996" and as may be subsequently amended or modified.

(b) "Cable television system" has the same meaning as "cable system", as defined in the Cable Act or rules or regulations promulgated by the FCC in accordance with the Cable Act.

(c) "Commission" means the Cable Television Review Commission of San Diego County or its successors.

(d) "Commission staff" means the County Department of Media and Public Relations.

(e) "FCC" means the Federal Communications Commission.

(f) "Franchise" has the same meaning as the term "franchise" in Public Utilities Code section 5830(f).

(g) "Gross revenues" has the same meaning as the term "gross revenues" in Public Utility Code section 5860(d).

(h) "License" means the authorization granted by the County pursuant to this chapter to construct, operate and maintain a cable television system in a right-of-way or other public place in the unincorporated area of the County.

(i) "Licensee" means the person to whom a license has been granted under this chapter.

(j) "Normal business hours" mean those hours during which most similar businesses in the community are open to service customers. In all cases, "normal business hours" shall include some evening hours at least one night per week and/or some weekend hours.

(k) "Normal operating conditions" mean those service conditions which are within the control of the cable operator. Conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(l) "Service interruption" means the loss of picture and/or sound on one or more cable channels.

(m) "Subscriber" means any person who lawfully receives signals from a cable television system or other video service system.

(n) "Video service" has the same meaning as the term "video service" in Public Utilities Code section 5830(s).

SEC. 21.1603. LICENSE OR FRANCHISE REQUIRED.

It shall be unlawful for any person, in the unincorporated area of the County, to provide cable television service without a license issued by the County or to provide video service without a franchise issued by the State.

SEC. 21.1604. LICENSE DURATION.

A license issued by the County shall expire as provided under the terms of the license agreement. If a license expires before January 2, 2008, the licensee shall be entitled to renew the license until January 2, 2008, provided the licensee intends to apply for a State franchise. The license may be terminated by the licensee as provided by Public Utilities Code section 5840(o)(3) or by the County pursuant to Public Utilities Code section 5930(c). The licensee and the County may also mutually agree to terminate the license.

SEC. 21.1605. LICENSE AND FRANCHISE FEES.

Licensees operating under a license issued by the County shall pay the County the license fee as provided in the license agreement. All franchisees operating under a State franchise shall pay the County the franchise fee as provided by Public Utilities Code sections 5800 et seq.

SEC. 21.1606. RATE CONTROL REGULATIONS.

The Commission shall have the power to regulate and establish rates and charges by licensees for cable service, and for installation and equipment charges in accordance with the requirements of 47 U.S.C. 543 and the rules and regulations prescribed by the FCC. Whenever a licensee requests an increase of any rate or charge requiring County approval the Commission shall hold a public hearing to determine whether the increase is justified. The Commission shall provide a procedure at the hearing to hear and consider the views of interested parties.

SEC. 21.1607. TECHNICAL STANDARDS.

(a) All licensees and franchisees shall comply with the minimum technical standards established by the FCC relating to the cable systems technical operations and signal quality.

(b) Licensees and franchisees shall upgrade their systems and services to accommodate newer or different technologies while meeting or exceeding customer service and consumer protection standards established by State and federal law and regulations.

(c) Licensees shall also comply with any additional terms relating to service and technical standards required by their licenses.

(d) The Commission may conduct periodic checks on cable systems, to insure compliance with this section.

SEC. 21.1608. INVESTIGATION AND RESOLUTION OF SUBSCRIBER COMPLAINTS.

(a) A licensee shall keep a record of all subscriber complaints. Investigation and resolution of complaints shall be effected at the earliest possible time after receipt of complaint. The record shall indicate the date, time and corrective action taken by the licensee. The licensee shall retain the subscriber complaint record for at least three years. A copy of the subscriber complaint record shall be submitted to the Commission staff upon request.

(b) If a subscriber is unable to obtain satisfactory resolution of a complaint filed with a licensee, the subscriber may notify the Commission in writing, stating the subscriber's name and address, the licensee involved, the nature of the complaint and the action taken to secure resolution of the complaint by the licensee.

SEC. 21.1609. REDISTRIBUTION OF CABLE TELEVISION SERVICE.

A licensee shall not provide cable television service to any person who redistributes the service to another person, unless the licensee retains all responsibilities and obligations under State law and this chapter to the County and the ultimate recipient of the service.

SEC. 21.1610. SERVICES TO PUBLIC BUILDINGS.

A licensee shall, at its own expense and at the request of a public agency, provide and maintain facilities and service as follows:

(a) One cable television connection to each public elementary school site, public secondary school site, community and state college and university site, and public educational administrative building within its authorized service area. A licensee shall not be required to provide the distribution system within the facilities.

(b) One cable television connection to each County unit such as Sheriff's stations, fire stations, public libraries, and other County facilities within its cable television service area. A licensee shall not be required to provide the cable television distribution system within the facilities.

(c) A licensee shall not charge the County or public schools any fee for providing the distribution of visual images or audio signals to any of the buildings connected pursuant to this section, except the pay services requested by the user.

(d) In the event that the public agency desires additional services, a licensee shall provide these services, charging the recipient of the service the actual variable cost to the licensee for the services.

(e) For good cause shown, the County may waive the connection requirements under this section or grant extensions of time to comply.

SEC. 21.1611. UNDERGROUNDING CABLE TELEVISION SYSTEMS.

Unless specifically exempted by the County a licensee or franchisee shall install cable television system lines underground in all subdivision areas in which the County requires utilities to be placed underground.

SEC. 21.1612. PROPERTY DISPOSITION UPON LICENSE EXPIRATION.

Upon the expiration or forfeiture of the license, the County, at its option, may acquire all or any part of a licensee's lines and equipment.

SEC. 21.1613. OTHER LICENSE TERMS AND CONDITIONS.

A licensee is required to comply with the following additional requirements:

(a) A licensee shall have no right to sell its subscribers' mailing lists and consumer surveys, unless a subscriber requests that his name be included in the mailing lists.

(b) A licensee that provides channels that carry sexually explicit programming shall notify its customers by written notice at the time of connection to the cable system and at least once every year, and that it will block out all sexually explicit channels upon request at no cost to the subscriber. The licensee may select the method to block out the channel, but the channel must be totally blocked out without negative effects on other channels.

SEC. 21.1614. SERVICE AREA AND SERVICE EXTENSION TIMETABLES.

Once a year the Commission staff may request a licensee provide a service area map and service extension timetable showing the areas to be provided cable television service for the next year.

SEC. 21.1615. SUBSCRIBER SERVICE OBLIGATIONS.

A licensee shall meet or exceed the following subscriber service standards:

(a) Maintain a local, toll-free or collect call telephone access line which shall be available to its subscribers 24 hours a day, seven days a week that provides:

(1) Trained company representatives to respond to subscriber telephone inquiries during normal business hours.

(2) An access line after normal business hours that shall be answered by a service or an automated response system. The licensee shall respond to inquiries received after normal business hours on the next business day.

(3) Sufficient personnel and telephone lines so that under normal operating conditions:

(A) Telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time, measured on a quarterly basis.

(B) A subscriber receives a busy signal less than three percent of the time.

(b) Perform installations and service calls, under normal operating conditions, 95 percent of the time, measured on a quarterly basis, as follows:

(1) Complete standard installations within seven business days after an order has been placed. Standard installations are those that are located within 125 feet from the existing distribution system.

(2) Begin working on a service interruption promptly and in no event more than 24 hours after it is aware of the interruption. The licensee shall also begin correcting any other service problem the next business day after it is aware of the problem.

(3) Offer appointment window alternatives for installations, service calls, and other installation activities at either a specific time or, at maximum, a four-hour time block during normal business hours. The licensee may also schedule service calls and other installation activities outside of normal business hours if convenient to subscribers.

(4) Not engage in the practice of cancelling an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(5) Contact a subscriber if its representative will be late for a service appointment. If the appointment has to be rescheduled the licensee shall reschedule the appointment at a day and time convenient to the subscriber.

(c) Require employees and agents who contact subscribers or potential subscribers outside the licensee's office to wear clothing or have in their possession a form of identification, indicating their affiliation with the licensee.

(d) Notify subscribers:

(1) When service begins, annually and any time upon request, of the following information:

- (A) Products and services offered;
- (B) Prices and options for programming services and conditions of subscription to programming and other services;
- (C) Installation and service maintenance policies;
- (D) Instructions on how to use the cable service;
- (E) Channel positions and programming carried on the system; and
- (F) Billing and complaint procedures, including the address and telephone number of the licensee's local office.

(2) A minimum of 30 days in advance of any changes in rates, programming services, channel positions or the information in subsection (d)(1) above, unless circumstance beyond the licensee's control preclude the licensee from giving 30 days notice, in which case the licensee shall give notice as soon as practicable. A licensee shall provide the notice required under this subsection by announcements on the cable system and in writing.

(e) Follow the below billing rules:

(1) Bills shall be clear, concise understandable and fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also delineate all activities during the billing period, including optional charges, rebates, and credits.

(2) In case of a billing dispute, the licensee shall respond to a written complaint from a subscriber within 30 days.

(f) A licensee shall issue refund checks as follows:

(1) At the subscriber's next billing cycle following resolution of the request or 30 days, whichever is earlier.

(2) Within 30 days after the licensee recovers the equipment it supplied to the subscriber if service is terminated.

(3) For a security deposit, after one year of timely payments. In the alternative, the licensee may notify the subscriber on every billing statement that the subscriber has the right to request return of the deposit after one year of timely payments.

(g) A licensee shall issue credits for service no later than the subscriber's next billing cycle following the licensee's determination that a credit is warranted.

(h) The licensee shall allow a subscriber who pays his bill directly to the licensee, at least 15 days from the date the bill for services is mailed to the subscriber to pay the

listed charges, unless the licensee and subscriber have entered into a rental agreement with different terms. If the subscriber has not paid any bill when due the licensee shall not terminate service for nonpayment of a delinquent account until the licensee furnishes the subscriber with a notice of the delinquency and impending termination, at least 15 days prior to the proposed termination. The notice shall be mailed to the subscriber's billing address. The notice shall not be mailed until the 16th day after the date the bill for services was mailed to the subscriber. The notice of delinquency and impending termination may be part of a billing statement. No licensee shall assess a late fee any earlier than the 22nd day after it mailed a bill.

(i) Every notice of termination of service sent pursuant to subdivision (h) shall include all of the following information:

(1) The name and address of the subscriber whose account is delinquent.
(2) The amount of the delinquency.
(3) The date by which payment is required in order to avoid termination of service.

(4) The telephone number of a representative of the licensee who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question.

(j) Service may only be terminated on days in which a subscriber can reach a representative of the licensee either in person or by telephone. Any service termination without good cause shall be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel, or other similar subscriber actions.

(k) Subscriber service centers and bill payment locations shall be open during normal business hours and be conveniently located.

SEC. 21.1616. FORFEITURE OF LICENSE DUE TO NONCOMPLIANCE.

A license issued under this chapter shall be subject to forfeiture for failure to comply with the requirements of this chapter or the terms of the license, unless the licensee is able to demonstrate that any noncompliance is beyond its reasonable control. If the Commission staff determines a licensee is not complying with this chapter or its license, it shall proceed as follows:

(a) The Commission staff shall serve the licensee with written notice of each violation the licensee is committing. The notice shall notify the licensee that it has 30 days from the date of receiving the notice to remedy the violations and that if the licensee fails to

remedy the violations within 30 days, the Commission staff will refer the matter to the Commission for a public hearing to determine whether the license should be forfeited.

(b) If the licensee fails to remedy the violations identified in the notice served pursuant to subsection (a) above the Commission staff shall request the Commission hold a public hearing to determine whether the license should be forfeited.

(c) If the Commission determines the licensee is not complying with this chapter or its license, it may declare a forfeiture of the license or it may allow the licensee to continue operating subject to certain conditions. If the licensee fails to comply with conditions imposed by the Commission, the Commission shall declare a forfeiture of the license. After a declaration of forfeiture the licensee shall cease all construction under the license and within 30 days after the declaration of forfeiture, conclude all operations and business under the license, unless the licensee appeals the forfeiture declaration. An appeal stays the operation of this subsection until the Board of Supervisor's renders a decision on the appeal.

(d) The Commission's declaration of forfeiture or other determination under this section shall be in writing and served on the parties.

(e) A licensee may appeal the Commission's declaration of forfeiture under this section to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within 30 days from the date of the declaration of forfeiture.

SEC. 21.1617. RECORDS.

The Commission staff shall have the right to inspect a licensee's facilities and a licensee's business records during normal business hours. The Commission staff shall also have the right to require a licensee to produce copies of any communications between the licensee and any federal or State regulatory agency having jurisdiction over the licensee's cable television system.

SEC. 21.1618. LICENSEE TRANSFERS.

(a) A cable television license shall only be sold, transferred, leased, assigned or disposed of as provided in a license agreement and with the County's consent.

(b) Requests for the County's consent pursuant to subsection (a) above shall be filed with the Commission. The Commission shall hold a public hearing 30 days after receiving a request under this section and shall evaluate a proposed transferee's technical, financial and managerial ability to take over the license. At least 10 days before the hearing the Commission shall give notice to the licensee and the proposed successor licensee and publish notice of the hearing.

SEC. 21.1619. FISCAL COMPLIANCE AND ANNUAL AUDITS.

The County Auditor and Controller shall have the right to conduct periodic audits of the financial records of a licensee to determine if a licensee is remitting the proper fees due the County. If the Auditor and Controller determines a licensee has not paid the County all fees owed to it for a specific time period, the Auditor and Controller shall have the right to conduct additional audits to determine if a licensee has paid all fees due the County for other time periods.

SEC. 21.1620. PERIODIC REVIEW IN PUBLIC HEARING.

(a) A licensee's performance under the terms of a license shall be subject to periodic review by the Commission in a public hearing at least every five years. The Commission shall report its findings in writing within 15 days of the hearing.

(b) In the event the Commission holds a public hearing on any other matter related to a license, it may review the licensee's performance at the same time as long as the notice of the public hearing identifies the scope of the hearing.

SEC. 21.1621. ALLOCATION OF ACCESS TIME ON EDUCATIONAL ACCESS CHANNELS.

The San Diego County Board of Education and its representative, the County Superintendent of Schools, is designated as the trustee of cable television allocations for educational access channels for the purpose of assuring fair and equitable distribution of channel space resources among the various school districts.

SEC. 21.1622. ALLOCATION OF ACCESS TIME ON GOVERNMENT ACCESS CHANNELS.

The San Diego County Board of Supervisors and its representative, the Chief Administrative Officer, is designated as the trustee of cable television allocations for government access channels for the purpose of assuring fair and equitable distribution of channel space resources.

SEC. 21.1623. ALLOCATION OF ACCESS TIME ON PUBLIC ACCESS CHANNELS.

The San Diego County Board of Supervisors and its representative, the Chief Administrative Officer, is designated as the trustee of cable television allocations for public access channels for the purpose of assuring fair and equitable distribution of channel space resources.

SEC. 21.1624. COMMISSION HEARINGS, DECISIONS AND APPEALS.

If the Commission is required to hold a hearing under this chapter the Commission shall not hold a hearing unless it gives at least 10 days notice of the hearing to a licensee whose license is the subject of the hearing and all other interested parties. Notice of the hearing shall be served on the interested parties pursuant to section 11.112 of this code and shall also be published pursuant to Government Code section 6061. Whenever the Commission is required or authorized to render a decision or finding pursuant to this chapter the decision or finding may be appealed to the Board of Supervisors as provided in this chapter. Any decision made by the Commission shall be in writing and shall also be served on the parties pursuant to section 11.112.

SEC. 21.1625. REQUESTS FOR COMMISSION ACTION.

A request for action by the Commission shall be filed with the Commission staff. Not later than 30 days after the Commission staff receives a request to take action under this chapter the Commission staff shall determine whether the request contains sufficient information to require the Commission to take action. If the Commission staff determines the request does not contain sufficient information it shall send written notice to the person making the request advising what additional information is required before the Commission can act on the request.

SEC. 21.1626. SCHEDULING REQUESTS FOR COMMISSION ACTION.

Not later than 35 days after the Commission staff receives a request that contains sufficient information for Commission to consider the Commission staff shall:

- (a) Place the request on the Commission's agenda for consideration at the next regular meeting; and
- (b) Give notice of the hearing as provided under section 21.1624.

SEC. 21.1627. HEARING ON REQUEST FOR SALE OR TRANSFER.

(a) Notwithstanding any other provision of this chapter, if the Commission receives a request to approve the sale or other transfer of a license that contains sufficient information on which the Commission may act, a final decision on the request, including any appeal, shall be completed within 120 days of the request, unless the requesting party and the Commission staff agree to an extension of time.

(b) If no extension has been agreed to the Commission shall conduct a hearing within 40 days after the Commission staff received a request that contains sufficient information. Within 10 days after the completion of the hearing the Commission shall

issue and serve a written decision. The Commission's decision under this section shall be final within 10 days of the written decision unless it is appealed to the Board of Supervisors. If the Commission denies the request to approve the sale or other transfer, the licensee or proposed transferee may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors with 10 days of the date of the Commission's written decision. The Board shall hear the appeal within 50 days after the notice of appeal is filed and shall announce its decision at the completion of the appeal hearing. The Board's decision shall be final.

SEC. 21.1628. COMMISSION DECISIONS.

Except for a hearing on a sale or transfer of a license under section 21.1627, the Commission shall issue a written decision within 15 days of the hearing, which shall be served on the parties to the hearing.

SEC. 21.1629. EFFECTIVE DATE OF COMMISSION DECISION.

Except as provided in section 21.1627 a decision rendered by the Commission shall become effective thirty days after the date of the decision unless the decision is appealed to the Board of Supervisors. If all parties to a decision agree in writing, a decision may become effective earlier than 30 days from the date of the decision.

SEC. 21.1630. APPEAL TO THE BOARD OF SUPERVISORS.

(a) Except as provided in section 21.1627, a party to a Commission decision may appeal the decision to the Board of Supervisors by filing a notice of appeal to the Clerk of the Board within 30 days of the Commission's oral decision. The notice of appeal under this section shall:

- (1) Be accompanied by a copy of the Commission's written decision;
- (2) Contain a concise statement of the grounds for appeal including any errors the appellant alleges the Commission committed; and
- (3) Contain an address within the County of San Diego to which the County may send written notices related to the appeal.

(b) The Clerk of the Board shall schedule the appeal for a hearing before the Board within 60 days from the date the appeal is filed. The Clerk shall provide each appellant with at least 10 days written notice of the hearing.

SEC. 21.1631. REVIEW BY BOARD OF SUPERVISORS.

The Board of Supervisors may adopt the Commission's decision, modify the Commission's decision or reverse the Commission's decision or refer the matter back to

the Commission for further hearing, specifying issues requiring additional evaluation. If the Board adopts, modifies or reverses the Commission's decision following a hearing, the Board's decision shall be final on the date it is orally announced.

SEC. 21.1632. FRANCHISEES TO PROVIDE PEG CHANNELS.

(a) Within three months after receiving a State franchise to provide video programming within the unincorporated area of the County, a franchisee shall provide on its network one public access channel, one educational channel and one government channel. A franchisee, shall not however, be obligated to provide PEG channels before the date it begins providing service to any subscriber. The PEG channels shall comply with Public Utilities Code section 5870 and shall be for the exclusive use of the County or its designee.

(b) After receiving notice that a franchisee has been issued a State franchise to provide video service within the unincorporated area of the County, the County will send written notice to the franchisee reminding the franchisee of its obligation under subsection (a) above to provide PEG channels.

SEC. 21.1633. ENCROACHMENT PERMIT.

(a) A franchisee shall obtain an encroachment permit from the County before it engages in any excavation, construction or installation of any cable, equipment or any other thing in a County right of way.

(b) A franchisee, who is denied an encroachment permit after submitting a completed application for the permit, shall have the right to appeal the denial by filing a notice of appeal with the Clerk of the Board of Supervisors within 15 days from the notice of denial. The Clerk shall schedule an appeal hearing with a County Hearing Officer appointed pursuant County Administrative Code sections 650 et seq. within 10 days after a franchisee files a notice of appeal. The Clerk shall assign the matter to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers.

SEC. 21.1634. FRANCHISEE TO COMPLY WITH SUBSCRIBER SERVICE AND PROTECTION STANDARDS.

(a) In addition to complying with subscriber service, consumer protection standards and privacy standards required by Public Utilities Code section 5900(a) and (b), a franchisee shall also comply with the County promptness standards for responding to subscriber installation, service and complaint calls in section 21.1615.

(b) If a franchisee commits a material breach of any of its obligations under subsection (a) above the County shall give the franchisee notice that identifies each material breach and allows the franchisee 30 days from the receipt of the notice to remedy the breach. If the franchisee fails to remedy the material breach within the time allowed, the County may assess monetary penalties against the franchisee. For purposes of this section a material breach has the same meaning as the term "material breach" in Public Utilities Code section 5900(j).

(c) The penalty for a material breach that a franchisee fails to remedy within 30 days after receiving notice of the breach under this section shall be fined \$500 a day for each day of each material breach up to a maximum of \$1,500 for each occurrence of a material breach. If, however, a penalty has been assessed against a franchisee for a material breach and the franchisee commits a subsequent material breach of the same nature within 12 months, which it fails to remedy within 30 days after receiving notice, the penalty shall be \$1,000 a day for each day of each material breach up to a maximum of \$3,000 for each occurrence of the material breach. If the franchisee commits a third or further material breach of the same nature within 12 months, which it fails to remedy after receiving notice and after being assessed penalties at least twice, the penalty shall be \$2,500 a day for each day of material breach up to a maximum of \$7,500 for each occurrence of the material breach.

CHAPTER 17. REGISTRATION OF COMMERCIAL WEIGHING AND MEASURING INSTRUMENTS

SEC. 21.1701. PURPOSE AND AUTHORITY.

Business and Professions Code sections 12210 et seq. provide that the sealer of each county shall inspect and test all weighing and measuring instruments used for commercial purposes within its jurisdiction. Business and Profession Code sections 12240 et seq. provide that a sealer may recover the cost of inspecting or testing these weighing and measuring instruments by charging an annual fee for each business location at which an instrument is located and for each instrument at the business location. This chapter establishes a system whereby the County Sealer of Weights and Measures annually registers a business location that uses weighing or measuring instruments for commercial purposes and all instruments used at the business location. This chapter also provides a system for the Sealer to recover its costs to inspect and test the instruments and makes it unlawful to use an unregistered instrument.

SEC. 21.1702. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Business location" has the same meaning as the term "business location" in Business and Profession Code section 12240(o).

(b) "Commercial purposes" has the same meaning as the term "commercial purposes" in Business and Professions Code section 12500(e).

(c) "Instrument" means a "weighing instrument" as defined in Business and Professions Code section 12500 (a) or a "measuring instrument" as defined in Business and Professions Code section 12500 (b)

(d) "Sealer" means the County Sealer of Weights and Measures, a Deputy Sealer or an inspector employed by the County Department of Agriculture, Weights and Measures for the purpose of enforcing this chapter.

(e) "Weighmaster" has the same meaning as the term "weighmaster" in Business and Professions Code sections 12700-12702.

SEC. 21.1703. REGISTRATION CERTIFICATE REQUIRED.

It shall be unlawful to own or operate a business location which contains one or more instruments to be used for commercial purposes without a current registration certificate from the Sealer that covers the business location and all instruments at the business location. It shall also be unlawful for any person to use an instrument for commercial purposes for which the Sealer had not issued a current registration certificate. The certificate shall be in addition to any other certificate, license or permit which may be required by the County or any other public entity.

SEC. 21.1704. APPLICATION FOR REGISTRATION CERTIFICATE.

An application for an initial or renewal registration certificate shall be submitted to the Sealer on a form prescribed by the Sealer. The Sealer shall issue the registration certificate upon receipt of a completed application and payment of the fee prescribed by Section 21.1706.

SEC. 21.1705. TERM OF REGISTRATION CERTIFICATE.

A registration certificate shall expire on December 31 of each year and may be renewed annually.

SEC. 21.1706. REGISTRATION FEE AND LATE PENALTIES.

(a) The registration fee for a business location and one or more instruments at the business location to be used for commercial purposes shall be as prescribed in County Administrative Code section 364.3 (referred to in this chapter as "section 364.3").

(b) Any person required by section 21.1703 to obtain a registration certificate shall be subject to a late penalty equal to 50% of the registration fee if the person fails to obtain the certificate within 30 days. An additional late penalty equal to 50% of the registration fee shall accrue for each 30 days thereafter that the registration certificate is not obtained, up to a maximum late penalty of 200%.

(c) Any person who fails to obtain a renewal registration certificate by January 30 of each year shall be subject to a late penalty equal to 50% of the registration fee. An additional late penalty equal to 50% of the registration fee shall accrue for each 30 days thereafter that the renewal registration certificate is not obtained, up to a maximum late penalty of 200%.

(d) Nothing in this section limits the County's right to prosecute and/or pursue civil penalties against an owner or operator who uses an unregistered instrument for commercial purposes in violation of this chapter.

SEC. 21.1707. LOST CERTIFICATE.

If a current registration certificate has been lost, the person to whom it was issued may obtain a replacement from the Sealer upon payment of a replacement fee.

SEC. 21.1708. TRANSFER OF CERTIFICATE.

A registration certificate issued pursuant to this chapter shall not be transferable from one person to another person or from one location to another location.

SEC. 21.1709. POSTING CERTIFICATE.

The owner or operator of a business location for which the Sealer has issued a registration certificate pursuant to this chapter shall post the certificate in a conspicuous place at the business location.

SEC. 21.1710. INSTRUMENTS USED BY WEIGHMASTERS.

No person shall act as a weighmaster unless currently licensed by the Secretary of Food and Agriculture pursuant to Business and Professions Code sections 12704 et seq. No weighmaster shall issue a weighmaster certificate pursuant to Business and Professions Code section 12711 et seq. based upon an instrument unless it has been tested and bears a current seal placed by the Sealer. If an instrument a weighmaster intends to use to issue weighmaster certificates does not pass a Sealer's inspection a weighmaster shall be subject to a re-inspection fee prescribed by section 364.3 for each re-inspection of the instrument the Sealer performs.

SEC. 21.1711. INSPECTION APPOINTMENT.

The Sealer may schedule an appointment, to inspect and test an instrument at a time mutually agreed upon by the Sealer and a business owner or operator. The business owner or operator shall give the Sealer at least 24 hours notice to cancel the appointment or pay the reschedule fee provided by section 364.3 before a new appointment shall be scheduled.

SEC. 21.1712. REQUESTS FOR TEST.

The Sealer, pursuant to Business and Professions Code section 12210(b), shall upon written request, calibrate, test, weigh, measure and certify the accuracy of non-commercial weights and measures and instruments, tools and accessories. The person requesting this service shall pay the fee provided by section 364.3.

SEC. 21.1713. LABELING AN INSTRUMENT NOT FOR COMMERCIAL USE.

(a) If the Sealer finds that a business location has an instrument that does not have a current registration certificate the Sealer may label the instrument "Not For Commercial Use" until the instrument is registered and sealed by the Sealer.

(b) It shall be unlawful for any person other than the Sealer to remove, conceal, alter or tamper with a label placed by the Sealer on any instrument.

SEC. 21.1714. STANDBY FEES.

The Sealer may charge a standby fee as provided in section 364.3 to an owner or operator of an instrument who requests that the Sealer standby during the time the owner or operator needs to put an instrument into the proper condition to be inspected or tested. The fee shall cover the Sealer's costs to standby.

CHAPTER 18. ADULT ENTERTAINMENT ESTABLISHMENTS AND PEEP SHOWS

SEC. 21.1801. LEGISLATIVE PURPOSE AND FINDINGS.

(a) It is the purpose of this chapter to regulate adult entertainment establishments 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 chapter 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 chapter 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 chapter to condone or legitimize the distribution of obscene material.

(b) 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. W.A.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 - 1980; 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 chapter 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 chapter 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 in the United States 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 have estimated 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) Removing 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 chapter 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 chapter.

(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 chapter.

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. The following additional definitions shall apply to this chapter:

(a) "Controlling Interest" means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote 20% or more of any class of voting securities of a business. The ownership, control, or power to vote 20% 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" 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" 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" means and include any of the following:

(1) The opening or commencement of any adult entertainment establishment as a new business;

(2) The conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;

(3) The addition of any adult entertainment establishment to any other existing adult entertainment establishment; or

(4) The relocation of any adult entertainment establishment.

(e) "Hearing Officer" means a County Hearing Officer appointed pursuant to sections 650 et seq. of the County Administrative Code.

(f) "Licensee" means a person in whose name a license to operate an adult entertainment establishment has been issued, as well as the individual or individuals listed as an applicant on the application for an 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" 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 Operate" means to cause to function or to put or keep in a state of doing business. "Operator" means any persons on the premises of an 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 an adult entertainment establishment whether or not that person is an owner, part owner, or licensee of the establishment.

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

(j) "Semi-nude" or semi-nudity" means 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.

(k) "Specified criminal activity" means any of the following offenses:

(1) Any sexual offense punishable as a felony, described in Penal Code sections 261-269; any offense involving obscene material punishable as a felony, described in Penal Code sections 311.1-311.12; any offense for keeping, maintaining or participating in a house of prostitution as described in Penal Code sections 315, 316, 318; any offense for soliciting, agreeing to engage in or engaging in an act of prostitution as described in Penal Code section 647(b); any felony offense requiring registration under Penal Code section 290 except for Penal Code section 314; sale of any controlled substance on Schedules I-V of the Health and Safety Code or any other felony involving moral turpitude; 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.

(l) "Transfer of Ownership or Control" of an adult entertainment establishment means any of the following:

(1) The sale, lease, or sublease of the establishment;

(2) The transfer of securities which constitute a controlling interest in the establishment, whether by sale, exchange, or similar means; or

(3) 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.

(m) "Viewing Room" means the room, booth, or area where a patron of an 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 unincorporated area of the County without a valid adult entertainment establishment license.

(b) Except for any person issued a license under subsection (a), it shall be unlawful for any person to be an employee, as defined in this chapter, of an adult entertainment establishment in the unincorporated area of the County without a valid adult entertainment establishment employee license.

(c) An application for an adult entertainment establishment license shall be filed at the office of the Sheriff on a form provided by the Sheriff. The application shall be signed by the applicant.

(d) An application for an adult entertainment establishment employee license shall be filed in person at the office of the Sheriff on a form provided by the Sheriff. The application shall be signed by the applicant.

(e) Within five days of receipt of an application, the Sheriff shall determine the completeness of the application and shall notify the applicant in writing if the application is deemed incomplete. An application shall be considered complete when it contains the following information:

(1) The applicant's full true name and any other names or aliases used in the preceding five 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 nolo contendere to a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

The information provided pursuant to paragraphs (1) through (6) of this subsection shall be supplemented by notice in writing by certified mail, return receipt requested, to the Sheriff within 10 working days of a change of circumstances which would render the information originally submitted false or incomplete.

(f) An application for an 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 21.1813 of this chapter shall submit a diagram meeting the requirements of that section.

(g) 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. Each licensee granted a license under subsection (c) shall not be required to also obtain an adult entertainment establishment employee license.

(h) A license required by this chapter 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.

(i) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the 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 an application under section 21.1803 for an adult entertainment establishment license and subject to subsection (d) below, the Sheriff shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the Sheriff's final decision to deny or grant the license. Within 30 days of the initial filing date of the application, the Sheriff shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The 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 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 chapter.

(5) The adult entertainment establishment premises are not in compliance with the interior configuration requirements of this chapter.

(b) Upon the filing of an application under section 21.1803 for an adult entertainment establishment employee license, the 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 30 days of the initial filing date of the application, the Sheriff shall either issue a license to the applicant or issue to the applicant a written letter of intent to deny the application. The 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 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 chapter.

(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 person or on the premises where the licensee is then working or performing and shall produce the license for inspection upon request by a law enforcement officer or other County official performing a function connected with the enforcement of this chapter.

(d) No adult entertainment establishment license, including a temporary establishment license issued under this section or a provisional establishment license issued under section 21.1823, shall become effective unless and until an Administrative Permit has been issued in accordance with County Zoning Ordinance section 6930.

SEC. 21.1805. NO TRANSFER OF LICENSE.

A licensee shall not transfer the license issued under this chapter to another person, nor shall a licensee operate an adult entertainment establishment at a location other than the one for which the license was issued.

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 the licenses issued pursuant to this chapter and are contained in section 21.1901.

SEC. 21.1807. EXPIRATION OF LICENSE.

Each license shall remain valid for a period of one year from the date of issuance unless otherwise suspended or revoked. The license may be renewed only by making application and payment of the applicable license fee.

SEC. 21.1808. HOURS OF OPERATION.

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

SEC. 21.1809. 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. 21.1810. NO MINORS ALLOWED / WINDOWS AND DOORS.

(a) It shall be unlawful for any person under 18 years of age to enter, be present in or remain in any adult entertainment establishment. It shall also be unlawful for an adult entertainment establishment licensee or an adult entertainment establishment employee licensee to knowingly, allow any person under 18 years of age to enter, be present in or remain in any adult entertainment establishment.

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

SEC. 21.1811. 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) No person in an adult entertainment establishment shall knowingly or intentionally appear in a state of nudity in an area where patrons are admitted, regardless of whether such public nudity is expressive in nature.

(b) No employee in an adult entertainment establishment shall knowingly or intentionally appear in a state of semi-nudity in area where patrons are admitted, unless the employee is at least six feet from the nearest area occupied by patrons and on a stage elevated at least 18 inches from the floor.

(c) No employee, who regularly appears in a state of semi-nudity in the adult entertainment establishment, shall 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) No employee who regularly appears in a state of semi-nudity in an adult entertainment establishment shall 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 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 so as to be clearly visible to patrons upon entry.

SEC. 21.1812. VIOLATIONS KNOWINGLY COMMITTED.

Notwithstanding anything to the contrary in this code, for the purposes of this chapter, only acts knowingly committed by an employee may constitute grounds to suspend or revoke an employee's license. An employee's act may only be imputed to the licensee of the adult entertainment establishment for purposes of determining the licensee violated this chapter if an officer, director or general partner or person who managed, supervised or controlled the operation of the establishment premises, knowingly allowed the act to occur at the establishment.

SEC. 21.1813. DIAGRAM SHOWING CONFIGURATION OF ADULT ARCADE / PEEP SHOW.

(a) Each application for an adult entertainment establishment license for an "Adult Arcade/Peep Show" shall contain a diagram of the interior of the establishment 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 establishment in which patrons will not be allowed. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place where 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 establishment to an accuracy of plus or minus six inches. The 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 establishment has not been altered since it was prepared.

(b) The interior of the establishment shall be configured so that there is an unobstructed view from a manager's station of every area where patrons are allowed, except restrooms, including the interior of each viewing room. A manager's station shall not exceed 40 square feet of floor area. If the establishment has more than one manager's stations designated, the interior of the establishment shall be configured so that there is an unobstructed view from at least one manager's station of each area of the establishment where any patron is allowed. 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 inside the establishment. 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 inside the establishment.

SEC. 21.1814. 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. 21.1815. PEEP SHOW BOOTHS -- MINIMUM DOORWAYS AND ENTRANCES.

(a) No person shall operate a peep show booth unless there are no fewer than two 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. Doorways shall be unlocked during business hours.

(b) 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. 21.1816. PEEP SHOW BOOTHS -- MINIMUM SIZE AND REQUIRED SIGNS, DEVICE LOCATION, OCCUPANT LOAD AND ENFORCEMENT.

(a) 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 four feet.

(b) 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."

(c) 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."

(d) The signs required by this section shall be at least six by eight inches in size and printed with dark ink on a light contrasting background with letters at least one quarter inch in height.

SEC. 21.1817. 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 on a sign and shall remain posted at the entrance to the room. The signs shall comply with the requirements of section 21.1816(d).

SEC. 21.1818. PEEP SHOW -- MANAGEMENT.

(a) 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 chapter.

(b) No alteration in the configuration or location of a manager station or viewing room may be made where the alteration fails to conform to the standards of this chapter.

(c) The operator and every employee who is present while the establishment is open for business shall have the following duties:

(1) To ensure that no patron is allowed access to any area of the establishment which has been designated as an area in which patrons will not be allowed in the application filed pursuant to this chapter.

(2) To ensure that no "specified sexual activity" occurs in the establishment.

(3) To ensure that not more than one person is present in a viewing room at any time.

(4) To ensure that no openings of any kind exist between viewing rooms.

(5) To require any patron to immediately leave the establishment upon discovering the patron making or attempting to make an opening of any kind between viewing rooms or in a viewing booth with one or more other patrons.

(6) To immediately secure and prevent any patron from entering any viewing rooms upon discovering an opening between viewing rooms.

(d) The operator shall also have the following additional duties:

(1) To inspect the walls between viewing rooms for openings of any kind at least once each business day.

(2) To conspicuously post all the following signs, that comply with section 21.1816(d), in well-lighted entry areas of the establishment:

(A) No loitering is allowed in viewing rooms;

(B) Only one person is allowed in viewing rooms at a time;

(C) Sexual activity on the premises is prohibited;

(D) Making openings between viewing rooms is prohibited; and

(E) Violators will be required to leave the premises.

(3) To ensure that floor coverings in viewing rooms are non-porous, easily cleanable surfaces, with no rugs or carpeting.

(4) To ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by non-porous easily cleanable material.

(5) To ensure that the establishment is clean and sanitary. These duties shall be deemed fulfilled if the operator complies with the following cleaning procedures:

(A) The operator maintains a regular cleaning schedule of at least two cleanings per day, documented by written logs;

(B) The operator provides 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 is 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 viewing room is done using a disinfectant. Cleaning shall include floors, walls, doors, seats, monitors, video cameras, and windows and other surfaces.

(e) It shall be unlawful for any person having a duty under this section to knowingly fail to fulfill that duty.

SEC. 21.1819. INSPECTION.

(a) Adult entertainment establishment operators and adult entertainment establishment employees shall allow officers or agents of the County to inspect, from time to time on an occasional basis, the portions of the adult entertainment establishment premises where patrons are allowed. The purpose of the inspections is to ensure that when the adult entertainment establishment is open for business the operator and all employees are complying with this chapter. This section shall be narrowly construed by the County to authorize reasonable inspections and not to authorize harassing or excessive inspections. A licensee's knowing or intentional refusal to allow an inspection shall not constitute a misdemeanor, but shall constitute a violation of this section for purposes of license denial, suspension, and/or revocation.

(b) This section does 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. 21.1820. REGULATORY VIOLATIONS, ENFORCEMENT AND CIVIL PENALTIES.

(a) An adult entertainment establishment or employee licensed under this chapter who knowingly violates, disobeys, neglects, fails or refuses to comply with this chapter shall be guilty of a regulatory violation. Each day a regulatory violation occurs is a separate regulatory violation for the purpose of license suspension or revocation.

(b) In addition to taking action to suspend or revoke the license of an establishment or employee licensed under this chapter the County may institute civil proceeding to enjoin regulatory violations and seek civil penalties for the violations. The County may also bring an administrative enforcement action as authorized under this code. Nothing in this

section, however, and no action taken to enforce any violation of this chapter shall exempt any person from being prosecuted for any criminal act committed under local, state, or federal laws which results from violating this chapter.

(c) The County may recover a civil penalty of up to \$2,500 for every separate violation of this chapter knowingly committed by an adult entertainment establishment or employee licensed under this chapter, or a person who is required to obtain a license under this chapter. In determining the amount of civil penalties the court shall take into consideration the nature, circumstances, extent, duration and gravity of the violation or violations, the ability to pay, any prior history of violations, and such other matters as justice may require.

SEC. 21.1821. VIOLATION -- LICENSE SUSPENSION.

The Sheriff may issue a notice of intent to suspend the license of any adult entertainment establishment if the licensee has knowingly violated this chapter or knowingly allowing any employee to violate this chapter. The Sheriff may also issue a notice of intent to suspend the license of any employee for knowingly violating this chapter. The maximum period of suspension shall be 30 days.

SEC. 21.1822. REVOCATION.

(a) The Sheriff may issue a notice of intent to revoke an adult entertainment establishment license or an adult entertainment establishment employee license if the licensee commits two or more grounds for suspension within 12 months.

(b) The Sheriff may issue a notice 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 the illegal 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 illegal possession, use, or sale of controlled substances on the premises.

(3) The adult entertainment establishment licensee has knowingly allowed prostitution at the establishment or, in the case of an employee, the adult entertainment establishment employee licensee has knowingly allowed or has engaged in prostitution at any licensed establishment.

(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 at licensed establishment or, in the case of an employee, the adult entertainment establishment employee licensee has knowingly allowed or has engaged in any specified sexual activity at any licensed establishment.

(c) The fact that any licensee is appealing a related criminal conviction for an act that is grounds for revoking the license shall have no effect on the revocation proceeding.

(d) If after the notice and hearing procedure described in section 21.1823, the Hearing Officer revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult entertainment establishment license or adult entertainment establishment employee license for one year from the date revocation becomes effective, provided that, if the conditions of section 21.1823(b) are met, a provisional license shall 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 90 days have elapsed since the date of the correction or abatement of the defect. If the license 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 year has elapsed.

SEC. 21.1823. HEARING: DENIAL, REVOCATION, AND SUSPENSION; APPEAL.

(a) When the Sheriff determines to deny a person a license under this chapter, or to suspend or revoke a person's license issued under this chapter the Sheriff shall send written notice of its proposed action to the person at the person's last known address. The notice shall include the reasons for the Sheriff's proposed action.

(b) A person receiving a notice described in subsection (a) above, the "respondent," may treat the notice of proposed action as a license denial, suspension or revocation, as applicable, and seek immediate judicial review. In the alternative, the respondent may first seek administrative review under this section.

(c) A respondent who elects to seek administrative review shall within 10 days of the date of the notice, request a hearing from the Sheriff. The request for hearing shall include the reasons the respondent believes the license should not be denied, suspended or revoked. Within five days after the Sheriff receives the hearing request it shall notify

the respondent of the date, time and location of the hearing and the hearing shall be held within 10 days of the date the Sheriff receives the hearing request, unless the respondent requests more time to prepare for the hearing. The Sheriff shall immediately issue the respondent a provisional license upon receipt of the hearing request. A provisional license for an adult entertainment establishment shall, however, be subject to section 21.1804(d).

(d) An administrative review hearing conducted under this section shall be conducted by a County Hearing Officer appointed pursuant to County Administrative Code sections 650 et seq. The Sheriff shall request the Clerk of the Board of Supervisors select a hearing officer on a rotating basis from the list of appointed hearing officers.

(e) At the administrative hearing the respondent shall have the opportunity to present evidence and witnesses and cross-examine any witness who testifies at the hearing. The hearing shall take no longer than two days, unless extended at respondent's request or as necessary to satisfy due process requirements. The hearing officer shall issue a written decision within five days after the hearing is concluded.

(f) The hearing officer's decision shall state whether there are sufficient grounds for the Sheriff's proposed action. If the hearing officer upholds the Sheriff's proposed action the decision shall advise the respondent of the right to challenge the decision in a court of competent jurisdiction. A provisional license issued under this section shall expire unless the respondent files an action for Administrative Mandamus under subsection (g) below. If the hearing officer finds the Sheriff's decision to deny a license cannot be upheld, the hearing officer shall direct the Sheriff to issue the license and the Sheriff shall issue the license within five days of the hearing officer's decision. If the hearing officer find that there are not sufficient grounds to suspend or revoke a license, the Sheriff's notice of proposed action shall be deemed withdrawn.

(g) A respondent who elects to seek immediate judicial review after receiving a notice as provided in subsection (a) or who seeks to challenge a hearing officer's decision upholding the Sheriff's proposed action in subsection (f) shall have the right to bring an action in a court of competent jurisdiction. The County hereby designates the license denial, suspension or revocation described in this chapter to be eligible for expedited judicial review pursuant to California Code of Civil Procedure section 1094.8. If the applicant files an action for Administrative Mandamus as provided in section 1094.8 to challenge the Sheriff's denial, suspension or revocation of a license the Sheriff shall immediately issue the applicant a provisional license. The provisional license shall allow the respondent 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 action brought under section 1094.8.

(h) If a respondent does not request an administrative hearing or file an action for Administrative Mandamus within 21 days of the date of the Sheriff's notice to deny, suspend or revoke an adult entertainment establishment license or adult entertainment employee license the Sheriff's determination shall be final.

SEC. 21.1824. 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 12 months shall also constitute a public nuisance. The public nuisance may be abated using the Public Nuisance Abatement Procedures contained in this code or in a civil action under section 21.1820. The remedies provided in this section are cumulative and not exclusive of any other remedy, right of action, or proceeding, provided by law.

SEC. 21.1825. SEVERABILITY.

If any provision or clause of this chapter 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.

CHAPTER 19. SHERIFF'S LICENSING FEE ORDINANCE

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-\$131; C-\$0; D-\$27; Teenage A-\$131; 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 \$52; \$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 \$368 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 plus \$50 per cab if cab 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: Annual fee shall be \$33. Renewal fee shall be \$17.
38. Transportation Tags/Christmas Trees: The annual fee shall be \$3. No renewal fee.

(B) SERVICES

1. Copies of Reports (Records): A fee of \$20 shall be charged.

2. Records Search/Criminal History Copies (Records): A \$14 fee shall be charged.
3. Good Conduct Letters (License): \$18 shall be charged for Good Conduct Letters.
4. Fingerprint Service (License): A fee of \$6 shall be charged for fingerprint services.
5. Fingerprint Service (Dead-Crime Lab): A fee of \$117 shall be charged.
6. Copies of Evidence Photos (Crime Lab): A fee of \$25 shall be charged for copies of evidence photos.
7. Copies of Crime Lab Reports: A fee of \$14 shall be charged for copies of Crime Lab reports.

CHAPTER 20. CONSUMER CONFIDENCE PROTECTION ACT

SEC. 21.2001. PURPOSE.

Retail establishments primarily use automated checkout systems, called "point-of-sale systems," to calculate the prices consumers pay for commodities. When these systems are inaccurate, consumers may be overcharged and unaware they have paid more than an advertised or quoted price. Business and Professions Code sections 13350 et seq. were enacted to provide criteria for counties that adopt ordinances to inspect point-of-sale systems. The Board of Supervisors finds and declares it is in the public interest for the County Sealer of Weights and Measures to register and inspect point-of-sale systems. This chapter provides a regulatory program for the County Sealer to register and inspect automated point-of-sale systems to protect San Diego consumers and to recover the County's regulatory costs.

SEC. 21.2002. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Commercial purposes" means determining the price consumers pay for retail products.
- (b) "Commodity" means any product sold at retail to a consumer.
- (c) "Point-of-sale station" means a checkout counter or other place in a retail establishment where a transaction occurs between a retailer and a consumer using a "point-of-sale system" to determine the price a consumer pays for an item.

(d) "Point-of-sale system" has the same meaning as "point-of-sale system" in Business and Professions Code section 13552.

(e) "Sealer" means the County Sealer of Weights and Measures, a Deputy Sealer or an inspector employed by the County Department of Agriculture, Weights and Measures for the purpose of enforcing this chapter.

SEC. 21.2003. PERMIT REQUIRED.

(a) It shall be unlawful for a person to use a point-of-sale system for commercial purposes in San Diego County without a current permit issued by the Sealer under this chapter. A separate permit shall be required for each establishment location.

(b) A person using three or fewer point-of-sale stations for commercial purposes in an establishment of 3,500 square feet or less of enclosed retail space, which has obtained a current registration certificate for one or more weighing or measuring instruments under section 21.1703, shall be required to obtain a permit under this chapter, but is exempt from the permit fee.

SEC. 21.2004. APPLICATION FOR PERMIT.

An application for a permit shall be submitted to the Sealer on a form prescribed by the Sealer. The Sealer shall issue the permit upon receipt of a completed application and the payment of fees and late penalties required by this chapter.

SEC. 21.2005. DURATION AND TRANSFERABILITY OF PERMITS.

(a) The permitting periods under this chapter are from January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31. A permit issued on the first day of any permitting period expires one year later. A permit issued after the first day of a permitting period expires on the first day of the same permitting period of the following year. Permit fees for renewal permits are due on the first day of the applicable permit period.

(b) Renewal of a permit is the responsibility of the permittee and shall be made in a manner similar to the issuance of the original permit.

(c) Permits shall not be transferable from one person to another person or from one establishment location to another establishment location.

SEC. 21.2006. FEES AND PENALTIES.

(a) A permit fee and a re-inspection fee for a person utilizing a point-of-sale system shall be established, from time to time, by the Board of Supervisors, in accordance with

applicable provisions of law, in amounts not to exceed the costs incurred by the County in performing the inspection, re-inspection, testing and permitting functions to which the fees relate.

(b) A person required to obtain a permit under section 21.2003 of this chapter shall be subject to a late penalty equal to 50% of the permit fee if the person fails to obtain the permit within 30 days. An additional late penalty equal to 50% of the permit fee shall accrue for each 30 days thereafter that the permit is not obtained, up to a maximum late penalty of 200%.

(c) A person required to renew a permit under sections 21.2003 and 21.2005 shall be subject to a late penalty equal to 50% of the renewal permit fee if the person fails to obtain the renewal permit within 30 days of the permit renewal date. An additional late penalty equal to 50% of the renewal permit fee shall accrue for each 30 days thereafter that the renewal permit is not obtained, up to a maximum late penalty of 200%.

(d) Nothing in this section limits the County's right to prosecute and/or pursue civil penalties against an owner or operator of a business location who uses a point-of-sale system for commercial purposes in violation of this chapter.

SEC. 21.2007. SEALER AUTHORIZED TO CONDUCT INSPECTIONS.

(a) The Sealer shall inspect all point-of-sale systems in retail establishments in San Diego County to determine the pricing accuracy of the systems, under a schedule determined by the Sealer. The Sealer shall follow Business and Professions Code sections 13350 et seq. when conducting inspections under this chapter.

(b) It shall be unlawful for any person using a point-of-sale system at a retail establishment for commercial purposes in San Diego County to refuse to allow the Sealer to conduct an inspection or to interfere with a Sealer's inspection under this chapter.

SEC. 21.2008. LOST PERMIT.

If a current permit has been lost, the person to whom it was issued may obtain a replacement permit from the Sealer upon request and payment of a nominal replacement fee.

SEC. 21.2009. POSTING PERMIT.

A person to whom a permit has been issued under this chapter shall post the permit at a conspicuous place within the establishment location for which it was issued.

SEC. 21.2010. POSTING OF NOTICE TO CONSUMERS.

(a) Every person who is required to obtain a permit under this chapter shall post the following "Notice to Consumers" at each point-of-sale station:

"ATTENTION CONSUMERS

Check your receipt and notify store management immediately of any overcharge.

Consumers are entitled to pay no more than the lowest posted, advertised, or quoted price for any commodity offered for sale at a retail establishment.

For information or to file a complaint, contact:

County of San Diego

Department of Agriculture, Weights and Measures at: “ _____ ”

The end of the "Notice to Consumers" shall list the phone number and website address provided by the Sealer.

(b) Each "Notice to Consumers" shall be posted so that it is conspicuous and easily read from a typical customer position at each point-of-sale station. The notice shall be contain the wording required in subsection (a) above, be printed in English in letters at least 1/16 of an inch high, be legible and a color that contrasts with the background color of the notice.

(c) The Sealer shall provide a copy of the "Notice to Consumers" upon request to any person to whom a permit has been issued under this chapter. Alternatively, a permittee may post a "Notice to Consumers" not prepared by the Sealer, provided it contains the wording required in subsection (a) above and is printed in English in letters that are at least 1/16 of an inch high, are clearly legible and are in a color that contrasts with the background color of the notice.

SEC. 21.2011. POSTING OF NOTICE OF FAILED INSPECTION.

(a) If the Sealer finds during an inspection under this chapter that a permittee is overcharging more than \$1.00 on a single item or overcharging on 2 or more items, without regard to the amount and the permittee's conduct results in a criminal conviction, civil penalty or administrative civil penalty, the Sealer may require the permittee to post a "Notice of Failed Inspection."

(b) If the Sealer requires the permittee to post a "Notice of Failed Inspection" the Sealer shall prepare the notice and send the notice to the permittee.

(c) A permittee who receives a "Notice of Failed Inspection" shall post the notice within 24 hours of receiving it and shall post it for 10 consecutive days. The permittee shall post the notice so that is clearly visible to any customer entering the business. The

notice shall be posted at each entrance through which customers may enter the business or on a window facing outward, within three feet of any entrance, no lower than four feet off the ground and no higher than five feet off the ground. If the Sealer determines the permittee has not properly placed the notice, the permittee shall relocate the notice as directed by the Sealer.

(d) It shall be unlawful for the permittee to cause the Notice of Failed Inspection to be removed, covered, hidden or altered while it is required to be posted.

SEC. 21.2012. POSTING OF NOTICE OF PASSING INSPECTION.

If the permittee passes an inspection under this chapter the Sealer shall offer to provide the permittee with a "Notice of Passing Inspection." If the permittee requests the Sealer provide a notice under this section the permittee shall only be allowed to post the notice for 10 days and shall only post a notice prepared by the Sealer.

SEC. 21.2013. REVOCATION OR SUSPENSION.

If a permittee violates this chapter the Sealer may revoke or suspend the permit after providing the permittee with the opportunity for a hearing as provided by Business and Professions Code Section 12015.3. The Sealer may obtain injunctive relief against any person who uses a point-of-sale system while his permit has been revoked or suspended.

SEC. 21.2014. RESTORATION OF SUSPENDED/REVOKED PERMIT.

A suspended or revoked permit shall be restored or reissued by the Sealer when the applicant or permittee has corrected all violations to the satisfaction of the Sealer, is in full compliance with applicable State law and this chapter.

SEC. 21.2015. RE-INSPECTION FEE.

The Sealer may charge a re-inspection fee to recover the Sealer's cost for re-inspecting a point-of-sale station that fails inspection.

CHAPTER 21. ENTERTAINMENT ESTABLISHMENTS

SEC. 21.2101 PURPOSE.

The purpose of this chapter is to regulate entertainment establishments other than "adult entertainment establishments" regulated in sections 21.1801 et seq.

SEC. 21.2102 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

(a) "Entertainment" means either or both "informal entertainment" or "professional entertainment" as defined below.

(b) "Entertainment establishment" means any place, including an outdoor location that provides members of the public with "entertainment" as defined in this chapter.

(c) "Informal entertainment" means any performance of the type listed in the definition of "professional entertainment" below, to which the public is admitted, but without a professional entertainer participating, directing or conducting another person's participation.

(d) "Mechanical music" means music produced only by a jukebox, radio, stereo system, hi-fi system, CD player, tape player or other similar device, not accompanied by a disc jockey or other announcer.

(e) "Professional entertainer" means a person who derives his livelihood by performing, directing or conducting entertainment in exchange for remuneration of any kind.

(f) "Professional entertainment" means any act, play, review, pantomime, scene, song, show, concert, dance act, song and dance act, disc jockey show or other announcer accompanying pre-recorded music, poetry recitation, fashion show, style show, exhibition or any other performance of any kind in which a professional entertainer participates, directs or conducts another who participates and to which the public is admitted.

SEC. 21.2103. ENTERTAINMENT ESTABLISHMENT LICENSE REQUIRED.

(a) It shall be unlawful for any person who owns, operates or manages an entertainment establishment to allow entertainment without an entertainment establishment license from the Issuing Officer, unless the entertainment is exempt from the license requirement. The Sheriff shall be the Issuing Officer for license issued under this chapter. The fees for entertainment establishment licenses are set forth in section 21.1901.

(b) A Class I Entertainment Establishment License is required for an establishment that provides professional entertainment.

(c) A Class II Entertainment Establishment License is required for an establishment that provides informal entertainment.

SEC. 21.2104. ADDITIONAL GROUNDS FOR ISSUING OR DENYING A LICENSE.

In addition to the grounds for issuing a new license or renewal license under sections 21.108(a) and 21.109(a), respectively, the Issuing Officer may also deny a new license or renewal license if within the last 5 years the applicant was convicted of any felony involving prostitution, pandering, gambling or the sale of firearms.

SEC. 21.2105. NOTICE OF INCOMPLETE APPLICATION.

An application for an Entertainment License shall be deemed complete after it is submitted to the Issuing Officer unless the Issuing Officer notifies the applicant in writing within 10 days that the application is incomplete. The notice shall state what the applicant must do to rectify the deficient application.

SEC. 21.2106. OPERATING RULES.

(a) It shall be unlawful for any entertainment establishment licensed pursuant to this chapter:

(1) To have any entertainment between the hours of 2:00 a.m. and 6:30 a.m. Mechanical music is, however, allowed during those hours.

(2) To allow the establishment to be used as a private club between the hours of 2:00 a.m. and 6:30 a.m.

(3) To allow any person to enter or remain in any in the establishment while under the influence of an alcoholic beverage or any drug.

(b) It shall also be unlawful for any person who is intoxicated or under the influence of any drug to enter any establishment licensed pursuant to this chapter or remain in the establishment after being told to leave.

SEC. 21.2107. FACILITY REQUIREMENTS.

An establishment licensed under this chapter shall comply with all applicable Fire Code and Building Code regulations for occupancy, places of assembly and interior, exterior and parking lot lighting. The establishment shall retain on file for inspection by any compliance officer an operations plan signed by the manager that provides the following:

(a) The maximum occupancy of the establishment,

(b) The configuration of tables, chairs, benches, stools and other furniture, when the establishment is occupied,

(c) An acknowledgment that all exit doors will remain unlocked from the inside while the establishment is occupied, and

(d) The name of each employee and the date the employee received training concerning the operations plan.

SEC. 21.2108. NUMBER OF EMPLOYEES.

Every establishment licensed pursuant to this chapter having a capacity 200 persons or less shall have at least one employee constantly on duty when any member of the public is present before, during or after an entertainment performance and shall have one additional employee for each additional 100 persons of capacity, without regard to the number of persons in attendance. The employees shall be responsible to insure that the establishment is complying with this chapter and the terms of the license and that all patrons are complying with this chapter. The Issuing Officer may require additional employees or security personnel on a case by case basis as the Issuing Officer deems in the public interest.

SEC. 21.2109. MANAGER REGISTERED WITH ISSUING OFFICER.

No establishment licensed under this chapter shall allow entertainment to be performed unless an adult manager is present who has previously registered with and been approved by the Issuing Officer.

SEC. 21.2110. REGISTRATION FEE.

The annual registration for an entertainment manager shall be accompanied by the fee set forth in the San Diego County Sheriff's Licensing Fee Ordinance.

SEC. 21.2111. EXEMPTIONS.

(a) A nonprofit organization presenting entertainment at an event solely for the purpose of raising money for charity, at a location that is not licensed pursuant to this chapter, shall obtain the appropriate license required under section 21.2103, but is exempt from paying the license fee.

(b) An organization that participates in a nonprofit community event licensed under sections 21.201 et seq. is exempt from the requirement to obtain a license under this chapter.

CHAPTER 22. PUBLIC DANCES

SEC. 21.2201. DEFINITIONS.

For the purposes of this chapter the following definitions shall apply:

(a) A "public dance" as used in this chapter means any public gathering to which the public may gain admission where dancing is allowed, whether or not there is an admission charge. It does not include teen-age dances regulated by sections 21.2301 et seq. or dances on the grounds of a college or university authorized and supervised by college or university officials.

(b) "Alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of 1 percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

SEC. 21.2202. EXCEPTION TO APPLICATION OF CHAPTER.

This chapter does not apply to any County park, as defined in Sec. 41.101 of this code, which closes at or before nine o'clock p.m.

SEC. 21.2203. LICENSE.

No person shall conduct a public dance in the unincorporated area of the County without a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for a license issued under this chapter. The license required by this chapter shall be obtained pursuant to sections 21.101 to 21.117 of this code and the procedures described below.

SEC. 21.2204. LICENSE CLASSIFICATIONS.

The following types of licenses are required for a public dance depending upon the time when the dance occurs:

- (a) A Class "A" license shall be required where there is daily or nightly dancing.
- (b) A Class "B" license shall be required where there is dancing not to exceed three days or nights in any calendar week.
- (c) A Class "C" license shall be required when dancing is conducted one night or one day only. These licenses are not renewable.
- (d) A Class "D" license shall be required where dancing is conducted in a club. As used in the paragraph "club" means a corporation or association operated for social,

fraternal, political, philanthropic or athletic purposes, which owns or occupies a facility, in which membership is by application, requires regular payment of dues, which has advantages that belong only to members and is not primarily for monetary gain.

SEC. 21.2205. ADDITIONAL REASONS FOR DENIAL OF LICENSE.

In addition to the reasons stated in section 21.108 for denying the license the issuing officer shall have the power to deny any license under this chapter if the activity at the location proposed would likely subject any inhabitant of a residence within 300 feet of the location to any noise that would be prohibited by the General Noise Regulations, section 36.414 of this code. The Issuing Officer may allow the license upon such conditions as he determines would cure the situations which may otherwise result in denial of the license.

SEC. 21.2206. MINORS PROHIBITED IF ALCOHOLIC BEVERAGES PRESENT.

It shall be unlawful, when alcoholic beverages are served at a public dance licensed under this chapter, for any person responsible for operating, managing, supervising a public dance or employed at public dance to allow any person under the age of 21 to be admitted, unless the person is accompanied by a parent, spouse, or legal guardian, 21 years of age or older.

SEC. 21.2207. MINORS UNDER 18.

When alcoholic beverages are not served at a public dance, the minimum age for admission is 18, unless the minor is accompanied by a parent, spouse, or legal guardian 18 years of age or older.

SEC. 21.2208. MISREPRESENTING MINOR'S AGE UNLAWFUL.

It shall be unlawful for any person under the minimum age for admission to falsely to represent his age to obtain admission to any public dance licensed under this chapter.

SEC. 21.2209. PERSONS TO BE EXCLUDED FROM PREMISES.

(a) It shall be unlawful for any person responsible for operating, managing, supervising a public dance or employed at a public dance licensed under this chapter to allow any person to be admitted to or to remain at any public dance who is intoxicated or under the influence of any controlled substance or who makes loud or unreasonable noise, engages in fighting, lewd or disorderly conduct or uses profane language.

(b) It shall also be unlawful for any person at a public dance to make an unreasonable noise, engage in fighting, lewd or disorderly conduct, or use profane language.

(c) It shall also be unlawful for any person or who is intoxicated or under the influence of any controlled substance to enter a public dance or remain at a public dance.

SEC. 21.2210. RESTRICTED HOURS FOR MUSIC AND DANCING.

It shall be unlawful to operate a public dance licensed under this chapter between the hours of 2:00 a.m. and 11:00 a.m.

SEC. 21.2211. SANITATION REQUIREMENTS.

No license for a public dance shall be granted under this chapter unless the place at which the dance is to be held complies with all federal, State and County laws and regulations. After the Issuing Officer issues a license for a public dance, the licensee shall be responsible to maintain the place where the dance is held, including any surrounding areas adequately lighted and properly ventilated.

SEC. 21.2212. RESPONSIBLE PERSON REQUIRED ON PREMISES.

For all public dances under a Class "A," "B" or "C" license, the licensee or some other designated responsible person must be on the premises during the times when alcoholic beverages are served. The designated person must be registered with the Sheriff and comply with Rule 57.6 of the California Department of Alcoholic Beverage Control. The designated person shall provide a copy of the "Notice of Qualification of Manager" issued under Rule 57.6 at the time of registration with the Sheriff.

SEC. 21.2213. MANAGER.

(a) All public dances licensed under this chapter shall have an adult manager on the site at all times when dancing is occurring. If the manager is a person other than an individual licensee, the manager shall be registered with and approved by the Sheriff.

(b) No person shall employ any person as a manager of a public dance who is required to register as a manager under paragraph (a) above until the Sheriff notifies the manager in writing that his registration has been approved. The operator of a public dance shall maintain the Sheriff's approval notice at the operator's usual place of business and have it available for inspection at all times.

CHAPTER 23. TEEN-AGE PUBLIC DANCES

SEC. 21.2301. PURPOSE.

The purpose of this chapter to prescribe the exclusive procedure for licensing public dances in the unincorporated area of the County attended by persons 14 or more years of age but under 20 years of age.

SEC. 21.2302. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Adult" means any person 21 years of age or over.
- (b) "Adult sponsoring group" means a nonprofit organization, one of whose objectives is to sponsor, regulate and control youth activities and child welfare, and which assumes full and complete responsibility for the direction of a teen-age dance.
- (c) "Police officer" includes any private police officer, any peace officer, whether on-duty or off-duty, reserve deputy or special deputy, employed by any public agency or political subdivision.
- (d) "Teen-ager" means any person 14 or more years of age but under 20 years of age.
- (e) "Teen-age dance" means a dance attended by a teen-ager unaccompanied by his parent or guardian.
- (f) "Youth service organization" includes any nonprofit organization whose primary purpose is to provide moral or spiritual development, education, or recreation for teen-agers, and which is exempted from the payment of the bank and corporation tax required by sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t and 23701w of the Revenue and Taxation Code.

SEC. 21.2303. LICENSE.

Unless exempt, as provided in this chapter, no person shall conduct or sponsor a teen-age dance in the unincorporated area of the County without license from the Issuing Officer. The Sheriff shall be the Issuing Officer for a license issued under this chapter. The license required by this chapter shall be obtained pursuant to sections 21.101 et seq. and the procedures described below.

SEC. 21.2304. LICENSE CLASSIFICATIONS.

The Issuing Officer may issue the following classes of teen-age dance licenses:

- (a) A Class "A" license which is issued for one calendar year.
- (b) A Class "B" license which is issued for one day or one night only. This license expires at midnight on the day for which it is issued and cannot be renewed.

SEC. 21.2305. TEEN-AGE DANCES IN A PRIVATE HOME.

This chapter does not apply to a teen-age dance in a private home to which the general public is not admitted and for which no fee or donation is charged, requested or accepted.

SEC. 21.2306. EXEMPTION.

Any teen-age dance sponsored and conducted by a school district or youth service organization as defined in this chapter which applies the profits from the dance only for charitable youth-oriented purposes is exempt from the license requirements of this chapter, if the dance meets all the following requirements:

- (a) Guests shall not exceed the number of school students or youth organization members attending.
- (b) No person 20 years of age or older may be admitted unless the person is a student at the school conducting the dance or a member of the sponsoring agency or organization;
- (c) No alcoholic beverages are served or consumed on the premises;
- (d) Chaperones from the sponsoring entity are present on the premises at the rate of one adult at least 25 years of age or older for every 100 guests;
- (e) No attendee is permitted to leave and thereafter re-enter the dance;
- (f) No loitering is allowed at or around the premises where dance is occurring; and
- (g) The dance ends by 12:00 a.m. and the dance and the premises where the dance is being held are promptly vacated by all attendees.

SEC. 21.2307. ADDITIONAL REASONS FOR DENIAL OF LICENSE AND CONDITIONAL LICENSE.

(a) In addition to the reasons provided in section 21.108 for denying a license the Issuing Officer may deny a license for a teen-age dance if the applicant has had a license revoked by the Issuing Officer within one year prior to the date of application.

(b) The Issuing Officer may issue a license subject to conditions that are it deems necessary to protect the public health and safety of dance attendees or the community.

SEC. 21.2308. SUPERVISION AND LIGHTING OF HALL.

All teen-age dances shall be adequately chaperoned and supervised. The area where dancing occurs and all inside areas of any facility housing the dance shall be lighted at all times when dance attendees are present with a minimum illumination of one foot-candle.

SEC. 21.2309. LIGHTING OF PARKING AREA.

All off-street parking facilities made available for attendees of a teen-age dance shall be adequately lighted and supervised.

SEC. 21.2310. ATTENDANCE.

No attendee of a teen-age dance shall be allowed to leave and thereafter re-enter the dance during the course of the dance.

SEC. 21.2311. ALCOHOLIC BEVERAGES PROHIBITED.

No alcoholic beverages shall be sold or consumed at a teen-age dance or in the immediate vicinity of the dance. No person shall be admitted to a teenage dance who is or has been drinking any alcoholic beverages or who has any alcoholic beverage on his person.

SEC. 21.2312. TIME LIMIT FOR DANCES.

All teenage dances shall be closed and premises cleared of attendees on or before 12 a.m.

SEC. 21.2313. DISORDERLY CONDUCT PROHIBITED.

It shall be unlawful for any attendee of a teen-age dance to engage in lewd or disorderly conduct or fighting, make loud or unreasonable noise or use profanity at the dance and the immediate vicinity of the dance.

SEC. 21.2314. ATTENDANCE BY ADULTS PROHIBITED.

No person 20 years of age or over shall attend any teen-age dance except that a person not over 20 years of age may accompany a teenager of the opposite sex to a teen-age dance as an attendee.

SEC. 21.2315. LOITERING.

It shall be unlawful to loiter within 100 feet of the outer boundaries of the area where a teen-age dance is occurring.

SEC. 21.2316. EMPLOYMENT OF POLICE OFFICERS.

The licensee shall employ, and there shall be on duty at all times during any teen-age dance at least one police officer for every 100 dance attendees with a minimum of one police officer for every exit and entrance. At least one female police officer shall be on duty at each teen-age dance, which shall not count towards the requirements of the minimum number of officers.

SEC. 21.2317. EXCEPTIONS TO POLICE OFFICER REQUIREMENTS.

An adult sponsoring group raising funds for use by its organization to promote youth activities may, at the discretion of the Issuing Officer, be exempted from the requirements of section 21.2316 if it can furnish proof that it will have a sufficient number of chaperones present to maintain order.

SEC. 21.2318. ADVERTISING.

No person shall publicly advertise a teen-age dance that requires a license under this chapter until the person has obtained the license required by this chapter.

SEC. 21.2319. RULES AND REGULATIONS.

The Issuing Officer may adopt rules and regulations as it deems necessary to carry out the purpose of this chapter. Rules and regulations adopted under this section shall not become effective until approved by the Board of Supervisors and a copy of the rules and regulations is filed with the Clerk of the Board of Supervisors.

CHAPTER 24. CARNIVALS AND CIRCUSES

SEC. 21.2401. DEFINITIONS.

For purposes of this chapter the following definitions shall apply:

(a) "Carnival" or "circus" means an event open to the public that offers diverse entertainment, which may include, but is not limited to shows, rides, play areas, animal acts, exhibits and concessions.

(b) "Concession" means a booth or other area within a carnival or circus where event attendees may in exchange for a fee or donation (1) play games of skill or strength in exchange for the opportunity to win a prize, (2) see a show, act, exhibit or attraction, (3) purchase food or merchandise, (4) go on a ride or enter a play area or (5) engage in another form of entertainment.

(c) "Game of chance" means a game whose outcome is determined by use of a device such as dice, cards or some other random selector.

(d) "Game of skill" means a game where the outcome is determined by mental and/or physical skill, rather than by chance.

(e) "Nonprofit organization" means a private nonprofit organization that has been qualified to conduct business in California for at least one year and is exempt from taxation pursuant to sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code.

(f) "Operator" shall mean any person who puts on a carnival or circus other than a nonprofit organization defined in paragraph (e) above.

(g) "Play area" means a section of a carnival or circus that contains games, amusement devices, non-mechanical rides, inflatable devices, animal rides or other interactive entertainment.

(h) "Prize" means anything of value given to a participant at any game concession.

(i) "Shill" means a person who poses as a customer in order to decoy others into participating in a carnival or circus game concession.

SEC. 21.2402. LICENSE REQUIRED.

(a) Except as allowed in subsection (b) below, no person shall operate a carnival or circus within the unincorporated area of the County without obtaining a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for a license issued under this chapter.

(b) A nonprofit corporation as defined in this chapter that operates a carnival or circus on property it owns or leases is exempt from the license requirement under this chapter. A person who operates a carnival or circus on behalf of a nonprofit corporation in exchange for payment of any kind, however, is not exempt and is required to obtain a license under this chapter.

SEC. 21.2403 APPLICATION REQUIREMENTS.

(a) The application for a license under this chapter shall be subject to sections 21.101-21.117 of this code and to any additional requirements of this chapter.

(b) An applicant for a carnival or circus license shall submit a completed application at least 60 days before the planned starting date for the event on a form provided by the Issuing Officer. The application shall contain the following information:

(1) For individual applicants: name, address and telephone number; for partnerships applicants: names, addresses and telephone numbers of the general partners; and for corporate applicants: the principal place of business, and the names, addresses and telephone numbers of the corporate officers.

(2) The address or parcel number of all property where the event is proposed to be conducted, including all property to be used for parking, or other uses incidental to the event. The applicant shall also submit proof of ownership of the premises or the written consent of all property owners of the identified property;

(3) The days and hours during which the event will be conducted;

(4) A schedule of entrance fees or other charges for admission or participation at the event;

(5) A list and description of all concessions at the event, including the concessionaires' names;

(6) An estimate of the maximum number of participants and attendees for each day it is conducted;

(7) A map or plan showing the location of all structures, including temporary structures, rides, concessions, play areas, lavatories, medical and first aid stations, food, water and trash removal facilities, parking areas and number of parking spaces and traffic flow patterns for vehicles and pedestrians;

(8) Information about who will provide security for the event and the number of security personnel that will be provided; and

(9) The name, address and telephone number of each employee who will work at the carnival or circus.

(c) With the application the applicant shall also submit proof:

(1) That all tents to be used are made of non-flammable materials or treated and maintained in a flame-retardant condition as required by Health and Safety Code section 13115.

(2) The applicant has, where applicable, notified the County Department of Animal Services in compliance with Health and Safety Code section 25989.1.

(3) The applicant is in compliance with Labor Code sections 7900 et seq. for any temporary amusement rides that will be used at the event.

(4) That the applicant has insurance that complies with section 21.2409.

SEC. 21.2404. ADDITIONAL GROUNDS FOR DENYING LICENSE.

In addition to the grounds for denying a license under section 21.108 the Issuing Officer may deny a carnival or circus license if he determines:

(a) Within the five years preceding the application the applicant has been convicted of an offense under Penal Code Sections 332 and 334 or a similar offense in any other State; or

(b) Conducting the carnival or circus will cause an increase in the amount of pedestrian and vehicular traffic that will present a threat to public health or safety to residents and others in the vicinity where the event is proposed to occur; or

(c) Conducting the carnival or circus will require diverting a significant number of law enforcement personnel from their normal duties that will likely prevent reasonable law enforcement protection to the community in the area where the event is proposed; or

(d) The applicant violated this code or State law while conducting a carnival or circus while issued a license pursuant to this chapter and the applicant is unable to demonstrate to the satisfaction of the Issuing Officer that the applicant will comply with this code or State law if the carnival or circus license is issued.

SEC. 21.2405. EMPLOYEE IDENTIFICATION CARD.

(a) No person shall work at any carnival or circus in the unincorporated area of the County, for which a license is required under this chapter, unless he is at least 16 years of age and has obtained an identification card from the Issuing Officer. An applicant may apply for an identification card under this chapter by submitting an application on a form provided by the Issuing Officer.

(b) The Issuing Officer may follow the investigatory procedures in section 21.107 and any other investigatory procedures it deems necessary to investigate the application.

(c) The Issuing Officer may deny an applicant an identification card for any reason that an Issuing Officer may deny a license or permit under section 21.108(a)(1), (a)(2), (a)(4), (b)(1), (b)(2) or (b)(4). The Issuing Officer may also deny an applicant an identification card if the applicant:

(1) Has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of persons attending a carnival or circus;

(2) Has been convicted of an offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of persons attending a carnival or circus;

(3) Has within the five years preceding the application been convicted of any offense under Penal Code sections 332 or 334 or a similar offense under the laws of another State.

(4) Has within five years preceding the application has had his identification card revoked for violating this code, State law or for committing an act that evidences his unfitness to work at a carnival or circus.

(e) The Issuing Officer will issue or deny the identification card within 30 days of receiving a completed application. An identification card will expire one year from the date it is issued unless the card provides a different expiration date.

(f) If the Issuing Officer denies the identification card, the Issuing Officer will provide the applicant with a notice of denial and follow section 21.110. The Issuing Officer may suspend or revoke the identification card for any of the grounds in section 21.112(a). If the Issuing Officer proposes to suspend or revoke the identification card he will follow section 21.112(b). If the appellant wishes to appeal the denial, suspension or revocation of the identification card sections 21.113-21.116 shall apply.

(g) It shall be unlawful for an operator to employ any person at a carnival or circus in the unincorporated area of the County unless the person has a valid identification card issued by the Issuing Officer.

SEC. 21.2406. EMPLOYEE TO DISPLAY IDENTIFICATION CARD.

An employee of a carnival or circus, for which a license is required by this chapter, shall display a valid identification card issued to him by the Issuing Officer at all times patron that patrons are present, while on the property where a carnival or circus is occurring. The employee shall prominently display the identification card on the outside front of the employee's clothing, between the waist and shoulders. The employee shall provide the identification card to any peace officer upon request.

SEC. 21.2407. ONLY GAMES OF SKILL ALLOWED.

(a) It shall be unlawful to operate a "game of chance" as defined in this chapter, at a carnival or circus in the unincorporated area of the County. The only games that are allowed at a carnival or circus in the unincorporated area of the County are "games of skill" as defined in this chapter.

(b) No person shall operate a game at a carnival or circus in which a person involved in the operation of a game solely determines whether a player has fouled or is disqualified, or in which the outcome of the game depends upon the judgment of any person involved in the operation of the game.

SEC. 21.2408. OPERATION OF GAME CONCESSIONS.

(a) Every game at a carnival or circus shall have a conspicuously posted sign where the game is located, which states the consideration required to participate in the game, the rules for playing the game and any other requirements necessary to win each prize offered. The lettering on the sign shall be at least four inches in height.

(b) Only merchandise that may be won by the player as a prize may be displayed in conjunction with any game. No other prizes or merchandise shall be displayed. All merchandise available to be awarded as prizes must be clearly and conspicuously marked with the requirements for winning the prize.

(c) No operator shall offer any currency, coins or other financial instrument as a prize for any game.

(d) It shall be unlawful for an operator to employ or use a "shill" or any other person to pose as a patron.

(e) An operator shall be responsible for any violation of Penal Code sections 332 and 334 and for any other illegal activity by any employee committed during a carnival or circus that the operator knowingly allows.

SEC. 21.2409. INSURANCE.

An applicant for a carnival or circus license shall provide proof of commercial general liability insurance coverage in an amount not less than \$1,000,000 for injury or death to persons arising out of the operation of a carnival or circus. It shall be unlawful for any person to operate a carnival or circus without the insurance required by this section being in full force and effect.

DIVISION 2. BUSINESS TAXES

CHAPTER 1. UNIFORM LOCAL SALES AND USE TAX

SEC. 22.101. PURPOSES.

The purposes of this chapter are as follows:

(a) To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California;

(b) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(c) To adopt a sales and use tax ordinance which imposes a one and one-quarter percent (1 1/4%) tax and provides a measure that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

(d) To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting County sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

SEC. 22.102. CONTRACT WITH STATE BOARD OF EQUALIZATION.

The County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax ordinance.

SEC. 22.103. SALES TAX.

(a) (1) For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the County at the rate of one and one-quarter percent (1 1/4%) of the gross receipts of the retailers from the sale of all tangible personal property sold at retail in the County of San Diego after June 30, 1972.

(2) For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by

the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from these sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated, shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization.

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenues and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on October 1, 1956 applicable to sales taxes are hereby adopted and made a part of this section as though fully set forth in this chapter.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the County of San Diego shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of the County of San Diego for the word "State" when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in Section 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted.

(3) If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

(4) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) Seventy five percent (70%) of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

SEC. 22.104. EXCISE TAX.

(a) An excise tax is hereby imposed on the storage, use or other consumption in the County of San Diego of tangible personal property purchased from any retailer for storage, use or other consumption in the County at the rate of one and one-quarter percent (1 1/4%) of the sales price of the property after June 30, 1972. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on October 1, 1956, applicable to use taxes, are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the name of the County shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this County for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other

consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the County shall not be substituted for that of the State in Sections 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation code as adopted, and the name of the County shall not be substituted for the word "State" in the phrase "Retailer engaged in business in this State" in Section 6203 nor in the definition of that phrase in Section 6203.

(3) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city, city and county, and county in this State.

(4) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from seventy percent (70%) of the tax.

SEC. 22.105. CREDITS.

Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this County, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code.

SEC. 22.106. LIMITATIONS ON LITIGATION.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this County or against any officer of the State or this County to prevent or enjoin the collection under this chapter or Part 1.5 of Division 2 of the Revenue and Taxation Code of any tax or any tax or any amount of tax required to be collected.

SEC. 22.107. AMENDMENTS OF STATE LAW.

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this chapter which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this chapter.

SEC. 22.108. CHAPTER MAY BE MADE INOPERATIVE.

This chapter may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the County's lack of compliance with Article II (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the County of the rate of its sales or use tax above the rate in effect at the time this chapter was enacted.

CHAPTER 2. TRANSIENT OCCUPANCY TAX

SEC. 22.201. TITLE.

This chapter shall be known as the Transient Occupancy Tax Ordinance of the County of San Diego.

SEC. 22.202. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Hotel" means any structure, or any portion of any structure, which is occupied, intended or designed for occupancy by transients for lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, mobilehome, trailer or other lodging.

(b) "Occupancy" means the use or possession, or the right to use or possess a room, any portion of a room or any other living space in a hotel for lodging or sleeping purposes.

(c) "Transient" means a person who exercises occupancy or is entitled to occupancy, of a hotel, pursuant to a concession, permit, right of access, license or other agreement for a period of 30 consecutive days or less, counting portions of days as full days.

(d) "Rent" means the monetary value of the consideration charged, whether or not received, for the occupancy of living space in a hotel, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deduction.

(e) "Operator" means the person who is the proprietor of the hotel, whether as an owner, lessee, sublessee, mortgagee in possession, licensee, or in any other capacity. Where an operator engages a managing agent, who is a person, other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as the agent's principal. Compliance with this chapter by either the principal or by the managing agent shall, however, be considered to be compliance by both.

(f) "Tax Collector" means the Tax Collector of the County of San Diego.

SEC. 22.203. TAX IMPOSED.

For the privilege of providing lodging in any hotel located in the unincorporated area of the County, an operator is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator. The tax constitutes a debt owed by the operator to the County which is extinguished only by payment to the County. Payment of the tax shall be as provided in section 22.207.

SEC. 22.204. EXEMPTIONS.

No tax shall be due for hotel occupancy:

(a) By any person as to whom, or any occupancy as to which, it is beyond the power of the County to impose the tax in this chapter;

(b) By any federal or State of California officer or employee on official business;

(c) By any foreign government officer or employee exempt under federal law or international treaty;

(d) Where the rent is at the rate of four dollars per day or less;

(e) By any person who receives a free or complimentary room where the only consideration the operator receives is publicity value for the hotel.

SEC. 22.205. OPERATOR'S DUTIES.

(a) An operator shall collect the tax imposed by this chapter in the same manner and at the same time as the operator collects rent from a transient.

(b) The operator shall hold all taxes it collects under this chapter in trust for the County until the operator remits the taxes to the Tax Collector.

(c) The operator shall provide a statement to the transient that separates that amount of tax due from the rent due and shall provide the transient with a payment receipt. The operator shall retain a duplicate copy of the payment as required by section 22.210.

(d) It shall be unlawful for an operator to advertise or state in any manner, whether directly or indirectly, that the operator will not charge the tax or any part of it or that the operator will assume, absorb or refund the tax or any part of it.

SEC. 22.206. REGISTRATION.

(a) Within 30 days after commencing business an operator of a hotel renting occupancy to transients shall register the hotel with the Tax Collector and obtain a transient occupancy registration certificate from the County. The operator shall post the certificate in a conspicuous place on the inside of the hotel. The certificate shall include the following:

- (1) The operator's name;
- (2) The address of the hotel;
- (3) The date the certificate was issued;

(4) A statement that provides, "This Transient Occupancy Registration Certificate signifies that the person named on the face of the certificate has registered with the County Tax Collector and is authorized to collect the San Diego County Transient Occupancy Tax. This certificate is not a permit to operate and does not excuse the person named from the requirement to obtain any other permits required by State or County laws."

(b) It shall be unlawful for any person to operate a hotel after being in business for more than 30 days, without the registration certificate required by this section.

SEC. 22.207. REPORTING AND REMITTING.

On or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which the Tax Collector may establish, an operator shall file a return with the Tax Collector and remit the full amount of transient occupancy tax the operator was responsible to collect during the reporting period. The return shall be on a form provided by the Tax Collector. If an operator ceases operating a hotel for any reason the return and taxes are due within 30 days after the operator ceased doing business. Returns or taxes not received by the Tax Collector or sent by first class mail or Express Mail, with sufficient prepaid postage and postmarked by the due date are

delinquent. If the Tax Collector determines that an operator has not filed a complete return by the due date, the Tax Collector may consider the return delinquent.

SEC. 22.208. PENALTIES AND INTEREST.

(a) An operator who fails to remit any tax imposed by this chapter by the due date shall be liable for a five percent penalty of the tax due, in addition to the amount of the tax.

(b) An operator who is delinquent under subsection (a) above, who fails to remit a delinquent payment on or before the first day of the next calendar month following the date the remittance first became delinquent shall be liable for a second delinquency penalty of an additional five percent of the unpaid tax in addition to the amount of the tax and the original five percent penalty imposed under subsection (a).

(c) If the Tax Collector determines that an operator failed to remit any tax due under this chapter due to fraud, the Tax Collector shall assess a 25% penalty of the amount of the tax in addition to the penalties assessed in subsections (a) and (b) above.

(d) In addition to the penalties imposed under this section, an operator who fails to remit any tax imposed by this chapter shall also pay interest at the rate of one percent per month or portion of a month on the unpaid tax calculated from the date the tax first became delinquent.

(e) Penalties imposed and the interest on unpaid taxes and penalties shall become a part of the tax due under this chapter.

(f) If the Tax Collector determines from an audit that an operator has not paid the full amount of taxes due the Tax Collector shall notify the operator of the amount of the taxes the operator owes, any applicable delinquency penalties and interest. If the operator fails or refuses to pay the deficient taxes, applicable penalties and interest within 14 days from the date of the Tax Collector's notice, the penalties prescribed in subsection (b) above shall apply, using the 15th day after the date of the Tax Collector's notice as the date when the second delinquency penalty shall be imposed, unless the operator requests a hearing before the Tax Collector pursuant to section 22.209(c). The Tax Collector's notice under this section shall comply with section 22.209(c). If the operator requests a hearing under this subsection, section 22.209(d) and (e) shall also apply.

SEC. 22.209. FAILURE TO COLLECT AND REPORT TAX. DETERMINATION OF TAX BY TAX COLLECTOR.

(a) If an operator fails to collect the tax imposed under this chapter, fails to file a return, fails to pay all taxes when due or fails to maintain adequate records to reflect the

taxes due the Tax Collector shall have the right to conduct an investigation to determine the taxes owed by the operator.

(b) If the Tax Collector reasonably believes that an operator has failed to fulfill any of the operator's obligations under this chapter, the Tax Collector shall have the right to inspect the operator's records. It is a violation of this chapter for an operator to refuse to make records available when requested by the Tax Collector.

(c) If the Tax Collector determines pursuant to this section that an operator has not paid the County all taxes the operator owes, the Tax Collector shall serve the operator with a notice for the taxes, penalties and interest the Tax Collector proposes to assess against the operator. The notice shall state that the operator has 21 days from the date of the notice to make a written request for a hearing before the Tax Collector. The notice shall also state that if the operator fails to timely request a hearing within the time allowed, the Tax Collector's determination of taxes, interest and penalties is final.

(d) If the operator makes a timely request for a hearing to contest the proposed assessment, the Tax Collector shall schedule a hearing and give the operator at least 14 days notice of the hearing. A hearing under this section shall be informal and need not follow any formal rules of evidence. The Tax Collector shall designate a person in the department to conduct the hearing who was not involved in the Tax Collector's determination in subsection (c) above. At the hearing, the operator may present evidence to contest the Tax Collector's determination.

(e) After the hearing the Tax Collector shall make a final determination of the taxes, penalties and interest the operator owes and serve the operator with a notice of the Tax Collector's final determination. The notice shall also state the amount due and that it is payable within 14 days of the notice unless the operator appeals pursuant to section 22.210.

SEC. 22.210. APPEAL.

An operator may appeal a Tax Collector's decision only if the operator requested a hearing before the Tax Collector pursuant to section 22.208(f) or 22.209(c). An operator who receives a notice under section 22.209(e) may appeal by filing a notice of appeal with the Clerk of the Board of Supervisors within 14 days from the date of the notice. The Clerk shall schedule a hearing with a County hearing officer appointed pursuant to County Administrative Code sections 650 et seq. and shall assign the matter by selecting a hearing officer on a rotating basis from the list of appointed hearing officers. The operator shall receive at least 10 days notice of the hearing. The hearing officer shall render a written decision that shall be served on the operator. If the hearing officer finds the operator owes any taxes, penalties or interest, any amount due shall be due and payable in full within 10 days from the date the hearing officer's decision was served.

SEC. 22.211. RECORDS.

An operator liable for the collection and payment of the tax imposed by this chapter shall retain the following records for three years: rent receipts, duplicate copies of payment receipts given to transients, documents verifying a transient's exemption under section 22.204, occupancy records, room logs, gross receipts records, records used to calculate the amount of occupancy tax due and any other business records that show when rooms in the hotel were occupied. The Tax Collector shall have to the right to inspect the records during normal business hours.

SEC. 22.212. REFUNDS AND CREDITS.

(a) Whenever any tax, penalty or interest has been overpaid, paid in error or erroneously collected or received by the County under this chapter a person who paid the tax, penalty or interest may file a written claim with the Tax Collector within three years of the date of payment, as provided in subsections (b) or (c) of this section. The claim shall be filed on a form furnished by the Tax Collector.

(b) An operator may claim a refund, or obtain a credit against unpaid taxes, for the amount the operator paid that the Tax Collector determines was not due the County. An operator may not claim a refund or a credit under this section unless the operator has made a full refund or given a credit to any transient from whom the operator collected the occupancy tax for which the operator requests the refund or credit.

(c) A person other than an operator who overpaid an occupancy tax, paid an occupancy tax in error or from whom an occupancy tax was erroneously collected or received by the County may file a claim as provided in subsection (a) above. A person may only file a claim under this subsection, however, if the person paid the tax (1) directly to the Tax Collector or (2) directly to an operator and establishes to the Tax Collector's satisfaction that the person claiming the refund has been unable to obtain a refund from the operator who collected the tax.

(d) No person shall be entitled to a refund or credit under this section unless the person can support the claim with.

SEC. 22.213. ACTIONS TO COLLECT.

(a) Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the County. Any tax due by an operator under this chapter, which the operator has not paid to the County, shall be deemed a debt the operator owes to the County. The County may bring a civil action against a person who fails to pay the County an amount due under this chapter.

(b) If any person fails to pay any taxes, penalty or interest owed to the County under this chapter when due, the Tax Collector may within three years from date payment was first due record a certificate of taxes, penalty and interest due with the San Diego County Recorder. The certificate shall state the amount of tax, penalties and interest due, the person's name and last known address and that the Tax Collector has determined the amount due pursuant to this chapter. From the time the certificate is recorded the amount due at the time the certificate is recorded plus any accrued interest constitutes a lien upon all real and personal property located in San Diego County owned by the person named in the certificate. The lien also attaches to any property the person acquires after the certificate is recorded until the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the time the certificate is filed unless the lien is released or discharged.

(c) At any time within the three years after the Tax Collector has recorded a certificate under subsection (b) the Tax Collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the County under this chapter. The warrant shall be directed to any sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Tax Collector may pay or advance to the sheriff the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution.

(d) In lieu of issuing a warrant under subsection (c), at any time within the three years after the Tax Collector has made a determination of taxes, penalties and interest due under section 22.208 or 22.209 or recorded a certificate under this section the Tax Collector may collect the amount owed the County by seizing or causing to be seized any real or personal property owned by the person liable and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest due on the unpaid amount and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall be only of property of the operator not exempt from execution under the provisions of the Code of Civil Procedure.

SEC. 22.214. DUTY OF PURCHASER.

If an operator who is liable for taxes, penalties or interest under this chapter sells or otherwise disposes of its interest in a hotel, the purchaser shall notify the Tax Collector of the date of sale at least 30 days before the sale or if the agreement to sell the hotel provides for a sale date sooner than 30 days, the purchaser shall notify the Tax Collector immediately after entering the sales agreement. The purchaser shall withhold a portion of the purchase price at the time of sale that is sufficient to pay the Tax Collector the full amount the operator owes unless the operator produces a receipt from the Tax Collector

showing the tax, penalty or interest has been paid in full or a certificate from the Tax Collector stating that no amount is due.

SEC. 22.215. LIABILITY OF PURCHASER FOR FAILURE TO WITHHOLD.

If the purchaser of a hotel fails to withhold from the purchase price an amount sufficient to pay an operator's liability for unpaid taxes, penalties or interest, the purchaser shall become jointly and severally liable for the amount owed the County by an operator. Within 30 days after the Tax Collector receives a written request from the purchaser for a certificate of registration the Tax Collector shall either issue the certificate or send notice to the purchaser of the amount that the purchaser shall pay in order for the Tax Collector to issue the certificate.

SEC. 22.216. VIOLATIONS.

It shall be unlawful for any person to:

- (a) Fail or refuse to file any return due under this chapter; or
- (b) Fail or refuse to collect any tax due under this chapter; or
- (c) Fail or refuse to pay any tax when due under this chapter; or
- (d) File a false or fraudulent return due under this chapter; or
- (e) Fail or refuse to comply with any other requirement of this chapter.

CHAPTER 3. REAL PROPERTY TRANSFER TAX

SEC. 22.301. TITLE.

This chapter shall be known as the "Real Property Transfer Tax Ordinance of the County of San Diego." It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code.

SEC. 22.302. TAX IMPOSED.

This chapter imposes a tax on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County of San Diego shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds \$100. The tax shall be at the rate of 55 cents for each \$500 or fractional part thereof.

SEC. 22.303. APPLICABILITY.

The tax imposed by Section 22.302 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

SEC. 22.304. TAX NOT APPLICABLE.

The tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. Any tax imposed pursuant to this chapter shall not apply with respect to any deed, instrument, or writing to a beneficiary or mortgagee, which is taken from the mortgagor or trustor as a result of or in lieu of foreclosure; provided, that such tax shall apply to the extent that the consideration exceeds the unpaid debt, including accrued interest and cost of foreclosure. Consideration, unpaid debt amount and identification of grantee as beneficiary or mortgagee shall be noted on the deed, instrument or writing or stated in an affidavit or declaration under penalty of perjury for tax purposes.

SEC. 22.305. EXEMPTIONS.

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state, or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this chapter when the exempt agency is acquiring title.

SEC. 22.306. ADDITIONAL INSTANCES TAX NOT APPLICABLE.

(a) The tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment that is any of the following:

- (1) Confirmed under the Federal Bankruptcy Act, as amended;
- (2) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 101 of Title 11 of the United States Code, as amended;
- (3) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title II of the United States Code, as amended; or
- (4) Whereby a mere change in identity, form or place of organization is effected.

(b) Subdivision (a) shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of the confirmation approval or change.

SEC. 22.307. ORDERS OF SECURITIES AND EXCHANGE COMMISSION.

The tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

(a) The order of the Securities and Exchange Commission in obedience to which the conveyance is made recites that the conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utilities Holding Company Act of 1935;

(b) The order specifies the property which is ordered to be conveyed;

(c) The conveyance is made in obedience to the order.

SEC. 22.308. TRANSFER OF INTEREST IN PARTNERSHIP.

(a) In the case of any realty held by a partnership or other entity treated as a partnership for federal income purposes, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or otherwise, if both of the following occur:

(1) The partnership or other entity treated as a partnership is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1986; and

(2) The continuing partnership or other entity treated as a partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership or other entity treated as a partnership for federal income tax purposes within the meaning of Section 708 of the Internal Revenue Code of 1986, for the purposes of this chapter, the partnership or other entity shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by the partnership or other entity at the time of the termination.

(c) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by a partnership or other entity at the time of the termination.

(d) No tax shall be imposed pursuant to this chapter by reason of any transfer between an individual or individuals and a legal entity or between legal entities that results solely in a change in the method of holding title to the realty and in which the proportional ownership interests in the realty, whether represented by stock, membership interest, cotenancy interest, or otherwise, directly or indirectly, remain the same immediately after the transfer.

SEC. 22.309. CREDIT FOR AMOUNT OF CITY'S TAX.

If the legislative body of any city in the County of San Diego imposes a tax pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half the amount specified in Section 22.302 of this chapter, a credit shall be granted against the taxes due under this ordinance in the amount of the city's tax.

SEC. 22.310. COUNTY RECORDER TO ADMINISTER AND ENFORCE.

The County Recorder shall administer and enforce this chapter and shall also administer any ordinance adopted by any city in the County pursuant to part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code, imposing a tax for which a credit is allowed by this chapter. On or before the fifteenth day of the month the Recorder shall report to the County Auditor the amounts of taxes collected during the preceding month pursuant to this chapter and each applicable city ordinance. The Auditor shall allocate and distribute monthly said taxes as follows:

- (a) All monies which relate to transfers of real property located in the unincorporated territory of the County shall be allocated to the County.
- (b) All monies which relate to transfers of real property located in a city in the County which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half to the city and one-half to the County.
- (c) All monies which relate to transfers of real property located in a city in the County which imposes a tax on transfers of real property not in conformity with said Part 6.7 shall be allocated to the County.
- (d) All monies which relate to transfers of real property in a city in the County which does not impose a tax on transfers of real property shall be allocated to the County.

SEC. 22.311. NO RECORDING UNLESS TAX PAID.

(a) The Recorder shall not record any deed, instrument or writing subject to the tax imposed by this chapter unless the tax is paid at the time of recording. A declaration of the amount of tax due, signed by the party determining the tax or the party's agent, shall

appear on the face of the document or on a separate paper, and the Recorder may rely on the declaration unless the Recorder has reason to believe that the full amount of the tax due has not been paid. The declaration shall include a statement of the consideration or value on which the tax due was computed. The declaration shall also state whether or not the consideration or value on which the tax was computed was exclusive of the value of a lien or encumbrance remaining on the interest or property conveyed at the time of sale. If the party submitting the document requests, the amount of tax due shall be shown on a separate paper which shall be affixed to the document by the Recorder after the permanent record is made and before the original is returned as provided in section 27321 of the Government Code.

(b) If the Recorder has reason to believe the amount of tax tendered with the document submitted for recording is not the full amount of the tax due, the Recorder may request additional information before recording the document.

(c) Every document subject to the tax imposed by this chapter which is submitted for recording shall show on the face of the document, or in a separate document, the location of the lands, tenements, or other realty described in the document. If the lands, tenements or other realty are located within a city in the County, the name of the city shall be set forth. If the lands, tenements or other realty are located in the unincorporated area of the County, that fact shall be set forth.

SEC. 22.312. NOTATION OF TAX ROLL PARCEL NUMBER.

Each deed, instrument, or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted upon it the tax roll parcel number. The number will be used only for administrative and procedural purposes. The number will not be proof of title and in the event of any conflicts the legal description noted upon the document shall govern. The validity of a document shall not be affected by the fact that a parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in the parcel number or for omitting the parcel number. The Recorder shall not accept any deed, instrument, or conveyance for recording unless the tax roll parcel number has been noted upon it. A parcel which has been created by the division of an existing parcel and which at the time of recording has no separate parcel number shall have noted upon it the words "portion of" and the parcel number of the parcel from which it was created.

SEC. 22.313. CLAIMS FOR REFUNDS.

Claims for refunds of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code.

SEC. 22.314. INTERPRETATION.

The Recorder shall interpret this chapter consistently with the Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and identified as Sections 47.4361-1, 47.4361-2 and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the regulations existed on November 8, 1967, except that for the purposes of this chapter, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under State law.

SEC. 22.315. SUBMITTING FALSE INFORMATION TO EVADE TAX.

It shall be unlawful for any person, for the purpose of evading the tax imposed by this chapter, to:

- (a) Willfully prepare a deed, instrument or other writing subject to the tax imposed by this chapter, that contains false information;
- (b) Submit a deed, instrument or other writing subject to the tax imposed by this chapter for recording, that the person knows contains false information;
- (c) Willfully make a material misrepresentation of fact to the County Recorder; or
- (d) Willfully assist a person in committing any of the acts in subsections (a)-(c) above.

SEC. 22.316. DETERMINATION OF DELINQUENCY.

(a) Whenever the Recorder has reason to believe after a deed, instrument or writing was recorded, that the full amount of the tax due under this chapter has not been paid the Recorder may by written notice:

(1) Require any person who may be liable for the tax to furnish affidavits, true copies of relevant records or other documents that establish the amount of consideration or value of any property or interest conveyed or vested and the amount any lien or encumbrance remaining on property or interest conveyed or at the time of sale.

(2) Require any person who claimed that the tax imposed by this chapter did not apply to a deed, instrument or writing recorded, or that the person was exempt from the tax, to furnish affidavits, true copies of relevant records or other documents that establish that the tax did not apply or that the person was exempt.

(b) The Recorder's notice shall state that the person to whom the notice is directed is required to furnish the requested information within 30 days from the date of the notice.

(c) From the information available, the Recorder may make a determination whether any tax is due under this chapter and if so, the amount of tax due and any person who may be liable for the tax. After the Recorder makes a determination under this section the Recorder shall serve a written notice of delinquency on any person liable for the tax that includes the following information:

(1) A description of the property or interest that was conveyed or vested without the full payment of tax;

(2) The amount of tax due;

(3) That unless the tax is paid within 30 days from the date of the notice or the person makes a written request to the Recorder for a conference to dispute the determination the Recorder will record a certificate of taxes due against the person named in the notice, which will become a lien against the property or interest for which the deed, instrument or writing referred to in subsection (1) above was recorded and any other real property located in San Diego County the person owns or acquires until the tax is paid.

(4) If the person does not make a written request for a conference, within 30 days, the Recorder's determination shall be deemed to be a final determination of delinquency for which there is no appeal to the County.

(d) If a person to whom the Recorder serves a written notice under subsection (c) above requests a conference, the Recorder shall schedule a conference within 30 days of the request. Following the conference the Recorder shall serve a notice of final determination of tax due on any person who may be liable for the tax. If the Recorder determines any person is liable for unpaid taxes under this chapter, the final determination of delinquency shall state the amount of tax due, a description of the property or interest conveyed or vested without the full payment of tax, the name of any person liable for the tax and that unless the tax is paid in full within 30 days of the notice, the Recorder intends to record a certificate of taxes due against the person named in the notice which will become a lien against the property or interest referred to in subsection (c)(1) and any other real property located in San Diego County the person owns or acquires until the tax is paid. The notice shall also state that it is a final determination of delinquency for which there is no appeal to the County.

SEC. 22.317. RECORDING CERTIFICATE OF TAXES DUE.

(a) Unless the full amount of tax determined by the Recorder to be due as provided in the notice under section 22.316 has been paid, the Recorder may record a certificate of taxes due against any person liable for the tax as determined by the Recorder under section 22.316. The certificate shall state the property or interest that was conveyed or vested for which the full amount of tax has not been paid, the full name and last known address of the person liable for the tax, the amount of tax due and that the Recorder has determined the amount due under this ordinance. From the time the certificate is recorded the amount due at the time the certificate is recorded constitutes a lien upon the

property or interest conveyed or vested without full payment of tax and all real property located in San Diego County owned by any person named in the certificate. The lien also attaches to any property the person acquires after the certificate is recorded until the lien is paid.

(b) After the Recorder has recorded a certificate under subsection (a) above the Recorder may issue a warrant for the enforcement of any lien and for the collection of any amount required to be paid to the County under this chapter. The warrant shall be directed to any sheriff and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The Recorder may pay or advance to the sheriff the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution.

SEC. 22.318. TAX AS A DEBT.

The tax imposed by this chapter shall be deemed to be a debt owed to the County. Any person owing the tax shall be liable in a civil action brought by the County to recover the debt. At the Recorder's request, the County Counsel may initiate a civil action against any person who fails to pay the tax imposed by this chapter. Filing a civil action under this section does not limit the County's right to bring any other action or use any other means authorized by this code to enforce the failure to pay the tax imposed by this chapter.

DIVISION 3. LOBBYING ACTIVITIES

CHAPTER 1. REGULATION OF LOBBYING ACTIVITIES

SEC. 23.101. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Candidate" means an individual who has filed a statement of organization as a committee for election to an elective County office, a declaration of intent for election to an elective County Office or a declaration of candidacy to an elective County office, whichever occurs first. An individual person shall not be deemed a candidate for purposes of this chapter (1) after he or she is sworn into the elective County office, or (2) if the individual lost the election, after the individual has terminated his or her campaign statement filing obligation for the office pursuant to Government Code section 84214 or after certification of the election results, whichever is earlier.

(b) (1) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(2) A payment made at the behest of a controlled committee is a contribution to the controlled committee unless full and adequate consideration is received from the controlled committee for making the payment.

(3) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office.

(i) A payment made principally for personal purposes, in which case it may be considered a gift.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i) made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications or elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii) above.

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting individuals to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(4) "Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not

extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(5) "Contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(6) "Contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(7) "Contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.

(8) Notwithstanding the foregoing, "contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(9) "Contribution" for purposes of this chapter, also does not include a contribution to support or oppose a ballot measure.

(c) "Controlled committee" means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if the candidate, his or her agent or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(d) "County decision" means a decision or recommendation (other than the making of a ministerial decision), concerning a legislative, administrative, or quasi-judicial matter, pending before or which may be submitted to:

(1) The Board of Supervisors or any County board, commission, committee or officer;

(2) The Board of Supervisors acting as the governing body of a special district; or

(3) Any board, commission, committee or officer of a special district for which the Board of Supervisors acts as the governing body.

(e) "County officer or employee" means all elected or appointed County officers, their deputies, assistants and employees and includes all officers and employees of any special districts for which the Board of Supervisors is the governing body.

(f) "Elected officer" means an individual who holds an elective County office or has been elected to an elective County office but has not yet taken office.

(g) "Elective County office" means members of the Board of Supervisors, the Assessor/Recorder/County Clerk, the District Attorney, the Sheriff, and the Tax Collector/Treasurer. For purposes of this chapter, the term "elective County office" does not include members of the County Board of Education.

(h) "Firm" includes a partnership and joint venture, but does not include an individual operating as a sole proprietorship under a fictitious name.

(i) (1) "Gift" means, except as provided in subsection (2) below, any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(2) "Gift" does not include the following:

(A) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(B) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(C) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that the gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(D) Campaign contributions required to be reported under the Political Reform Act, as amended.

(E) Any devise or inheritance.

(F) Personalized plaques and trophies with an individual value of less than \$250.

SEC. 23.102. REGISTRATION.

(a) Except as provided in section 23.103, an individual who, on behalf of any corporation, firm, organization or individual other than himself attempts to influence any County decision by contacting, personally or by telephone any of the following County officers or employees shall prior to the contact, or within 5 days of the contact, register with the Clerk of the Board of Supervisors as a County legislative advocate:

- (1) Members of the Board of Supervisors
- (2) Members of Planning Commission
- (3) Members of Assessment Appeals Board
- (4) Members of Civil Service Commission
- (5) Members of San Diego County Air Pollution Control District Hearing Board
- (6) Confidential Investigators of the Board of Supervisors
- (7) Board Representatives of the Board of Supervisors
- (8) County Assessor
- (9) Chief Deputy County Assessor
- (10) District Attorney
- (11) Assistant District Attorney
- (12) Sheriff
- (13) Undersheriff
- (14) County Treasurer
- (15) Chief Deputy County Treasurer

- (16) Director of Planning and Land Use
- (17) Director of General Services
- (18) Chief Administrative Officer
- (19) Assistant Chief Administrative Officer
- (20) Members of San Diego County Capital Asset Leasing Corporation (SANCAL) Board of Directors
- (21) Director of Purchasing and Contracting

(b) An individual representing a firm of which he is a member shall be deemed to be representing an individual other than himself.

(c) The registration requirement imposed by this section shall apply to all individuals conducting the activities described in subsection (a) above. A corporation, firm, or organization employing persons engaged in lobbying activities may not elect to register in its own name.

(d) The Clerk of the Board of Supervisors shall maintain a current list of all individuals registered under this section and update the list at least once a month.

SEC. 23.103. EXEMPTIONS FROM REGISTRATION REQUIREMENT.

The following individuals are not required to register:

(a) An individual whose only contact with any County officer or employee described in section 23.102 in attempting to influence a County decision consists of speaking at a public meeting or hearing before a board or commission or at a hearing before a County officer, or of sending a written communication to a County officer or employee, or both.

(b) An officer or employee of the United States or any state or political subdivision thereof, cities, counties, special districts, or any other governmental entity, representing his governmental employer in the course of his official duties.

(c) A member of the State Bar of California who is performing a service which lawfully can be performed only by an attorney licensed to practice law in California.

(d) Any representative of an employee organization while acting pursuant to the Meyers-Milias-Brown Act (the "Act") or pursuant to a procedure established by the County in accordance with the Act, who contacts an officer or employee of the County other than a member of a board or commission, or who contacts a member of a board or

commission who has been designated by the board or commission as its representative to meet with the representative of an employee organization.

(e) Any individual brought to a County officer or employee described in section 23.102 by a person registered pursuant to this chapter to provide technical or other information.

(f) Any individual whose contacts with County officers or employees described in section 23.102 is limited to routine sales discussions with the Director of Purchasing and Contracting for the purpose of selling goods or services to the County.

SEC. 23.104. CONTENTS OF REGISTRATION.

(a) The registration made pursuant to Section 23.102 shall be in writing, filed with the Clerk of the Board of Supervisors, signed by the registrant, or an authorized officer thereof, under penalty of perjury.

(b) The registration shall provide the following information:

(1) Registrant's full name.

(2) Registrant's business address.

(3) The full name of any individual, firm, corporation, or organization represented. If the registrant is employed by a company or firm that itself has been retained by an individual, corporation, firm, or organization to obtain a County decision, to which the registrant has been assigned, the registrant shall disclose the names of both his immediate employer and any individual, corporation, firm, or organization that has retained his immediate employer.

(4) A list of the elective County offices that the registrant will attempt to influence. The list shall include the Board of Supervisors in the event that the registrant will attempt to influence any member of the Board.

SEC. 23.105. NOTIFICATION OF REGISTRATION REQUIREMENT.

The Clerk of the Board of Supervisors shall issue, upon request of any County officer or employee described in Section 23.102 a "Notice of Registration Required" to any individual believed by the County officer or employee to be required to register under section 23.102. An individual who in good faith believes that he is not required to register under this Chapter shall not be deemed to have violated section 23.102 if he registers within 10 days after receipt of notice from the Clerk of the Board of Supervisors that registration is required.

SEC. 23.106. DISCLOSURE STATEMENTS.

(a) The term "quarter" means the annual calendar quarter of the year, namely, the time periods encompassed by January 1 - March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31, respectively.

(b) An individual registered or required to be registered pursuant to this chapter and any individual, corporation, firm, or organization represented by an individual registered pursuant to this chapter, who makes any expenditure of \$25 or more on any one occasion, or who expends in the aggregate a total of \$100 or more in any one quarter in providing food, drink, lodging, transportation, recreation, service, or any other thing of value, including a gift to a County officer or employee described in section 23.102, whether on his own behalf or on behalf of another, shall file, between the 1st and 15th day of each calendar quarter, a written statement disclosing the expenditures made during the preceding quarter. The statement shall be filed with the Clerk of the Board of Supervisors, and provide the amount expended, the name of the County officer or employee who received the service or thing of value and be signed under penalty of perjury. For purposes of determining the amount expended during one quarter, the amounts expended on any one County officer or employee by all representatives, officers, directors and employees of a corporation, firm, or organization shall be aggregated.

SEC. 23.107. EMPLOYMENT OF COUNTY OFFICERS OR EMPLOYEES.

An individual registered or required to be registered under section 23.102 or an individual, corporation, firm or organization employing or represented by an individual registered or required to be registered who knowingly employs a County officer or employee shall file a written notice with the Clerk of the Board of Supervisors. The notice shall be filed with the Clerk within ten days after employing a County officer or employee. The notice shall be entitled, "Notice of Lobbyist Employing a County Officer or Employee" and shall contain the full name and business address of the person filing the statement, the full name of the County officer or employee the lobbyist is employing, the amount of money or other consideration the lobbyist is paying to the officer or employee and the date the lobbyist first employed the officer or employee.

SEC. 23.108. PROHIBITED CAMPAIGN CONTRIBUTIONS.

(a) No elected officeholder shall accept any campaign contribution from a person registered pursuant to this chapter where the person's registration form includes the elected office of the officeholder in the list of County offices the registrant will attempt to influence as provided under section 23.104(b)(5).

(b) No candidate for elective County office and no controlled committee of the candidate shall accept any campaign contribution from a person registered pursuant to

this chapter where the person's registration form includes the elected office to which the candidate is seeking election in the list of County offices the registrant will attempt to influence as provided under section 23.104(b)(5).

(c) Prior to the end of each calendar month the Clerk of the Board shall compile a list of all persons registered pursuant to this chapter and the elected office or offices such persons will attempt to influence.

(d) Elected officeholders, candidates for elective County offices and the candidate's controlled committee may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether campaign contributions may be accepted from any person. Acceptance of campaign contributions which would not be prohibited based on the information set forth in the Clerk's most recent list of registrants shall not constitute a violation of this section.

SEC. 23.109. PROHIBITED GIFTS.

No elected officer and no candidate for elective office shall accept a gift from an individual registered pursuant to this chapter. An elected officer or candidate for elective County office may reasonably rely on the information contained in the most recent list of registrants compiled by the Clerk in determining whether a gift may be accepted from an individual. Accepting a gift from an individual not on the Clerk's most recent list of registrants shall not constitute a violation of this section unless the elected officer or candidate knows that the individual making the gift has registered, even though the registrant is not been included on the list.

DIVISION 4. TAXATION

CHAPTER 1. PLEASURE RIDING TRAIL TAX

SEC. 24.101. PURPOSE AND AUTHORITY.

Government Code section 53940 et seq. recognizes that owners of pleasure riding animals receive a special benefit from the use of public areas suitable for public riding and authorizes counties to levy a tax on horses used primarily for pleasure riding. The purpose of the tax is to help defray the cost of creating and maintaining these special areas. This chapter is intended to implement the Pleasure Riding Tax Law in the County of San Diego and to implement the Riding and Hiking Trails Plan and Program (hereinafter referred to as the "Trails Plan"), a sub-element of the Recreation Element (Revised) Part IV of the San Diego County General Plan, 1990. In particular, this ordinance is adopted in accordance with Action Program 7.1 of the Trails Plan. The purpose of this chapter is to provide funds for the acquisition, maintenance, and construction of trails in San Diego County. The County Department of Parks and Recreation shall be responsible for the administration and coordination of this chapter.

SEC. 24.102. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Department" means the County Department of Parks and Recreation.
- (b) "Exempt horse" means any horse which falls within one or more of the following categories continuously during a license period:
 - (1) A horse ridden or used by the owner, his family, or his employee primarily in the carrying on of a business or ranch operations; or
 - (2) A horse used by the owner for rental use entirely upon private lands under the control of the owner; or
 - (3) A horse used by the owner for rental use primarily upon a parcel of land belonging to the federal government if the County does not use the proceeds of a tax under this chapter for improvements within that parcel of land; or
 - (4) A horse during any year that it has been assessed by the County with an ad valorem tax and the tax has been paid; or
 - (5) A horse during any year that it has been assessed with an in lieu tax is imposed and the tax has been paid; or

(6) A horse which belongs to or is rented to a public agency or to a member of a volunteer patrol operated with governmental sanction or an employee of a public entity and the horse is mainly ridden to patrol public hiking or riding trails; or

(7) A horse under 24 months of age; or

(8) A horse brought into the County for a period of 10 days or less.

(c) "Horse" means any horse, mule, donkey, or other equine used substantially or capable of being used substantially for pleasure riding or trail use.

(d) "License tag" means the official license issued by County or other official horse licensing agency in San Diego County for the purpose of identifying licensed horses.

(e) "Public equestrian trail" means any public trail, right of way or easement dedicated and accepted by the County or other public entity having land or jurisdiction over land in the County, which allows for pleasure riding.

SEC. 24.103. IMPOSITION OF TAX.

This chapter imposes an annual Pleasure Riding Tax on every horse, not exempt, which is located in the County of San Diego and is used for pleasure riding or trail riding within the County upon a public equestrian trail.

SEC. 24.104. TAX PERIOD: LICENSE EXPIRATION.

The period covered by the tax shall be one calendar year commencing on January 1 and terminating on December 31. Every license issued pursuant to Section 24.107 shall expire on December 31 of the last year for which it is issued and shall become delinquent after the last working day of the following January.

SEC. 24.105. TAX AMOUNT.

(a) This chapter imposes a tax of \$10.00 per calendar year on each non-exempt horse, payable upon issuance of the annual license. The amount of tax shall be reduced by equal quarterly amounts for an initial license application made subsequent to the end of any quarter during the calendar year.

(b) As an alternative, a two year license shall be issued upon payment of a biennial tax of \$16.00. No reduction in tax is authorized for a two year license regardless of the date on which the application is made.

SEC. 24.106. LATE RENEWAL FEE.

In addition to the tax imposed by this chapter, a late renewal fee shall be imposed upon an application for a license renewal received after the date when the license became delinquent. The additional fee shall be collected with the license tax and shall be in an amount equal to \$1.00 for each calendar month or fraction thereof after the delinquency in which the applicant has not filed a renewal application up to a maximum of \$5.00.

SEC. 24.107. LICENSE AND COLLECTION OF TAX.

The Department shall collect the Pleasure Riding Tax and shall issue, upon proper application and payment of the tax, a "Pleasure Riding License" in the name of the County of San Diego. The application and license shall be upon forms furnished by the Department shall consistent with this chapter. The license shall allow a person to ride the horse for which the license fee was paid on public equestrian trails located in the County of San Diego.

SEC. 24.108. LICENSING OF EXEMPT HORSE.

The Department may issue a Pleasure Riding License to an owner of an exempt horse on receiving proof that the horse is exempt under this chapter.

SEC. 24.109. SUSPENSION OF TAX.

The Department shall have the authority to suspend collection of the tax if the Department determines that sufficient revenue has been collected to meet the anticipated expenditures for public trail acquisitions and maintenance for any given calendar year.

SEC. 24.110. RECOGNITION OF LICENSES ISSUED BY OTHER JURISDICTIONS.

The Pleasure Riding Tax imposed by this chapter shall be suspended as to any horse with a valid license issued by a county other than the County of San Diego or a regional park district pursuant to the levy of a tax under the Pleasure Riding Tax Law.

SEC. 24.111. LICENSE TAG.

The Department shall provide each holder of a Pleasure Riding License with a license identification tag for each horse for which a tax is paid under this chapter.

SEC. 24.112. RECORD.

The Department shall keep a record of the name and address of the person to whom each identification tag is issued, the number of the tag, the date of issuance and a description of the horse for which the tag was issued.

SEC. 24.113. REPLACEMENT TAG.

Whenever a license tag is lost or damaged, the owner shall apply for and secure a replacement from the Department upon statement of loss and payment of a \$1.00 replacement fee.

SEC. 24.114 TRANSFER LICENSE.

Whenever the ownership of a licensed horse changes, the new owner shall apply for and obtain a transfer license from the Department upon payment of a \$2.00 fee.

SEC. 24.115. CHANGE OF ADDRESS.

The address of the owner, or of the person who is in possession of the horse, is presumed to be the abode of the horse. Any change of address shall be reported to the Department within 30 days following the change.

SEC. 24.116. DEPOSIT AND USE OF PROCEEDS.

The revenue derived from the tax imposed under this ordinance shall be deposited in a special trust fund in the County Treasury. The fund shall only be used to defray the reasonable expenses of collecting the tax and for the maintenance, acquisition and construction of trails for horseback riders and hikers. Monies in the fund may also be used for and as local matching monies for any federal or State grant for the acquisition and development of a federal or State trails project.

SEC. 24.117. DISPLAY OF LICENSE TAGS.

The license tag shall be affixed to or upon the tack of a horse using a public equestrian trail described in this chapter, so that the license shall be fully visible and readable.

SEC. 24.118. VIOLATIONS AND PENALTIES.

Any person who violates any this chapter by riding or using a horse, not exempt, for pleasure riding or trail riding within the County of San Diego, upon a public equestrian trail as defined by this chapter, without having in their possession the license required by this chapter or official evidence of the issuance of the license is guilty of an infraction,

punishable by a fine not exceeding \$50.00 for a first violation and not exceeding \$100.00 for a second or subsequent violation within 12 months.

SEC. 24.119. ENFORCEMENT.

Any peace officer is responsible for enforcing the provisions of this chapter shall have the power to make arrests for violations of this chapter and of State law which he has a duty to enforce and to issue citations for the violations. Any person arrested for violating this chapter who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Penal Code sections 853.5 et seq.

Section 4. Amend Article XXXIII of the San Diego County Code of Administrative Ordinances to read as follows:

ARTICLE XXXIII COUNTY HEARING OFFICER

SEC. 650. ESTABLISHMENT OF POSITION.

This article establishes the position of County Hearing Officer, pursuant to Government Code sections 27720 et seq. This article does not apply to hearing officers hired to hear appeals of administrative citations, pursuant to San Diego County Code sections 18.101 et seq.

SEC. 651 HEARING OFFICER'S AUTHORITY AND DUTIES.

When any provision of the County Code or County Department policy provides that an appeal from an administrative action by a County officer shall be assigned to a hearing officer appointed under this article, the hearing officer shall have the authority to conduct a hearing, issue subpoenas, receive evidence, administer oaths, rule on the admissibility of evidence and upon questions of law. The hearing officer's authority on a particular matter, however, may be limited by the applicable County Code provisions or department policy. The hearing officer shall render a written decision, including any findings or conclusions required for the decision and submit the decision to the Clerk of the Board of Supervisors.

SEC. 652. HEARING OFFICER QUALIFICATIONS.

In order to qualify for the position of hearing officer pursuant to this article, a person must be an attorney at law admitted to practice before the courts of the State of California for at least five years prior to the appointment.

SEC. 653. APPOINTMENT OF HEARING OFFICERS.

An applicant for appointment to the position of hearing officer shall submit proof of qualification under section 652. Each member of the Board of Supervisors shall nominate two applicants for appointment to the pool of hearing officers. Hearing officers shall be appointed by an affirmative vote of a majority of the members of the Board of Supervisors, from the persons nominated.

SEC. 654. COMPENSATION OF HEARING OFFICER -- EXPENSES.

A hearing officer shall receive compensation as provided in the County Compensation Ordinance in effect on the date of hearing over which the hearing officer presides, and may be reimbursed for actual and necessary expenses, not including stenographic

expenses, when approved in advance by the Board of Supervisors or the Chief Administrative Officer.

SEC. 655. TERM OF HEARING OFFICER.

A hearing officer appointed under this article shall serve a term which shall run concurrently with the term of the member of the Board of Supervisors who nominated the hearing officer. The term shall expire on the date the term of the member of the Board of Supervisors who nominated the hearing officer expires or at that time that Supervisor ceases to hold office, whichever first occurs. A hearing officer whose term has expired shall continue to discharge the duties as a hearing officer until a successor has been appointed. A hearing officer who is in the process of hearing a matter when the hearing officer's term expires, however, shall continue to discharge the duties as a hearing officer for that matter until the matter is completed. The reelection of a member of the Board of Supervisors for a succeeding term shall not automatically extend the term of any hearing officer.

SEC. 656. REMOVAL OF HEARING OFFICER.

A hearing officer shall serve at the will and pleasure of the Board of Supervisors and may be removed at any time, without cause. Suspension or revocation of a hearing officer's license to practice law in the State of California shall automatically revoke a hearing officer's appointment to serve.

Section 5. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED THIS 26th day of September, 2007.