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ORDINANCE NO.

An ordinance of the County of San Bernardino, State of California, amending Chapter 28 of Division 1 of Title 4 of the San Bernardino County Code, relating to adult business performer license.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Chapter 28 of Division 1 of Title 4 of the San Bernardino County Code is amended to read:

CHAPTER 28: ADULT BUSINESS PERFORMER LICENSE
Section

- 41.2801 Definitions.**
- 41.2802 Purpose.**
- 41.2803 Adult Business Performer License.**
- 41.2804 Investigation and Action on Application for Adult Business Performer License.**
- 41.2805 Revocation/Suspension/Renewal/Denial of Adult Business Performer License.**
- 41.2806 Display of License Identification Cards.**
- 41.2807 Adult Business Performer License Nontransferable.**
- 41.2808 Violations.**
- 41.2809 Regulation Non-Exclusive.**
- 41.2810 Severability.**

41.2801 Definitions.

The definitions for this ~~C~~chapter shall be governed by the definitions found in ~~§~~Section 810.01.030(~~lm~~) of the County Development Code unless otherwise stated.

1 **41.2802 Purpose.**

2 It is the purpose and intent of this ~~c~~Chapter to provide for the licensing of adult
3 business performers in order to promote the health, safety, and general welfare of the
4 County. The goals of the performer licensing provisions are (a) to protect minors by
5 requiring that all performers be over the age of 18 years; (b) to assure the correct
6 identification of persons performing in adult businesses; (c) to enable the County Sheriff
7 to deploy law enforcement resources effectively; and (d) to detect and discourage the
8 involvement of crime in adult businesses by precluding the licensing of performers with
9 certain sex-~~r~~related convictions within a prior time period. It is neither the intent nor the
10 effect of these regulations to invade the privacy of performers or to impose limitations or
11 restrictions on the content of any communicative material. Similarly, it is neither the
12 intent nor the effect of these regulations to restrict or deny access by adults to
13 communicative materials or to deny access by the distributors or exhibitors of adult
14 businesses to their intended lawful market. Nothing in these regulations is intended to
15 authorize, legalize, or permit the establishment, operation, or maintenance of any
16 business, building, or use which violates any County ordinance or any statute of the
17 State of California regarding public nuisances, unlawful or indecent exposure, sexual
18 conduct, lewdness, obscene or harmful matter, or the exhibition or public display
19 thereof.

20 **41.2803 Adult Business Performer License.**

21 (a) No performer/adult cabaret dancer shall be employed, hired, engaged, or
22 otherwise retained in an adult business, legally established pursuant to Chapter 85.21
23 of Division 5 of Title 8 (Development Code) of the San Bernardino County Code, to
24 participate in or give any live performance displaying "specified anatomical areas" or
25 "specified sexual activities" without first having a valid ~~a~~Adult ~~b~~Business ~~p~~Performer
26 License issued by the County.

27 (b) The ~~Clerk of the Board of Supervisors ("the Clerk") or his or her designee~~
28 responsible department shall grant, deny, and renew ~~a~~Adult ~~b~~Business ~~p~~Performer

1 ~~L~~licenses in accordance with these regulations.

2 (c) License applicants shall file a written, signed, and verified application or
3 renewal application on a form provided by the ~~Clerk~~ responsible department. Such
4 application shall contain the following information:

5 (1) The license applicant's legal name and any other names (including
6 "stage names" and aliases) used by the applicant.

7 (2) Principal place of residence.

8 (3) Age, date and place of birth.

9 (4) Height, weight, hair and eye color, and tattoo descriptions and
10 locations.

11 (5) Each present and/or proposed business address(es) and telephone
12 number(s) of the establishments at which the applicant intends to work.

13 (6) Driver's license or identification number and state of issuance.

14 (7) Satisfactory written proof that the license applicant is at least 18
15 years of age.

16 (8) Verification that the applicant has submitted a completed Livescan
17 form and two, color two-by-two inch photographs clearly showing the applicant's face to
18 the San Bernardino County Sheriff's Department. Any fees for the photographs and
19 fingerprints shall be paid by the applicant. Fingerprints and photographs shall be taken
20 within six months of the date of application.

21 (9) Whether the license applicant has pled guilty or nolo contendere or
22 been convicted of an offense classified by this or any other state as a sex related
23 offense including crimes involving moral turpitude, prostitution, or obscenity subject to
24 the time periods established in §Subsections 85.21.020(c)(4)(A), (B), and (C).

25 (10) If the application is made for the purpose of renewing a license, the
26 license applicant shall attach a copy of the license to be renewed.

27 (d) The information provided above in ~~S~~subdivision (c) of this ~~S~~section which
28 is personal, private, confidential or the disclosure of which could expose the applicant to

1 the risk of harm will not be disclosed under the California Public Records Act or the
2 open government ordinance. Such information includes, but is not limited to, the
3 applicant's residence address, telephone number, date of birth, age, and driver's
4 license. The Board of Supervisors in adopting the application and licensing and/or
5 permit system set forth herein has determined in accordance with Government Code
6 §section 6255 that the public interest in disclosure of the information set forth above is
7 outweighed by the public interest in achieving compliance with this ~~C~~chapter by
8 ensuring that the applicant's privacy, confidentiality or security interests are protected.
9 The above-mentioned information shall be redacted from any copy of a completed
10 application form made available to any member of the public.

11 (e) The completed application shall be accompanied by a non-refundable
12 application fee and an annual license fee. The amount of such fees shall be as set forth
13 in the schedule of fees established by ordinance from time to time by the Board of
14 Supervisors.

15 (f) The completeness of an application shall be determined within 24
16 business hours by the ~~Clerk~~ responsible department. The ~~Clerk~~ responsible department
17 or his or her designee must be available during normal working hours Monday through
18 Friday to accept ~~A~~aadult ~~b~~Business ~~p~~Performer ~~I~~License applications. If the ~~Clerk~~
19 responsible department determines that the application is incomplete, the ~~Clerk~~
20 responsible department shall immediately inform the applicant of such fact and the
21 reasons therefor, including identifying any additional information necessary to render
22 the application complete. Upon receipt of a completed ~~a~~AAdult ~~b~~Business ~~p~~Performer
23 ~~I~~License application and payment of the license fee specified in ~~s~~Subdivision (e) of this
24 ~~s~~Section, the ~~Clerk~~ responsible department shall immediately issue a temporary license
25 which shall expire of its own accord 20 business days from the date of issuance and
26 shall only be extended as provided in §Section 41.2804.

27 (g) This temporary ~~a~~AAdult ~~b~~Business ~~p~~Performer ~~I~~License shall authorize the
28 license applicant to commence performance at an adult business establishment that

1 possesses a valid aAdult bBusiness rRegulatory pPermit authorized to provide live
2 entertainment.

3 (h) The fact that a license applicant possesses other types of state or city
4 permits or licenses does not exempt the license applicant from the requirement of
5 obtaining an aAdult bBusiness pPerformer lLicense.

6 **41.2804 Investigation and Action on Application for Adult Business**
7 **Performer License.**

8 (a) Upon submission of a completed application, payment of license fees, and
9 issuance of a temporary aAdult bBusiness pPerformer lLicense pursuant to §Section
10 41.2803, the Clerk-responsible department shall immediately stamp the application
11 "Received" and in conjunction with County staff, including members of the Sheriff's
12 Department, shall promptly investigate the information contained in the application to
13 determine whether the license applicant should be issued an aAdult bBusiness
14 pPerformer lLicense.

15 (b) Investigation shall not be grounds for the County to unilaterally delay in
16 reviewing a completed application. The Clerk-responsible department's decision to
17 grant or deny the adult business performer license shall be made within 20 business
18 days from the date the temporary license was issued and in no case shall the decision
19 to grant or deny the license application be made after the expiration of the temporary
20 license. In the event the Clerk-responsible department is unable to complete the
21 investigation within 20 business days, he or she-the responsible department shall
22 promptly notify the license applicant and extend the temporary license for up to 20
23 additional days. In no case shall the investigation exceed 40 days to allow sufficient
24 time for the LiveScan result, nor shall the decision to grant or deny the license
25 application be made after the expiration of the temporary license.

26 (c) The Clerk-responsible department shall render a written decision to grant
27 or deny the license within the time period set forth in §subdivision (b) of this sSection.
28 Said decision shall be mailed first class postage prepaid or hand delivered to the

1 applicant within the foregoing 20-day period, or 40-day period if extended pursuant to
2 sSubdivision (b) of this sSection, at the address provided by the applicant in the
3 application.

4 (d) The Clerk-responsible department shall notify the applicant as follows:

5 (1) The Clerk-responsible department shall write or stamp "Granted" or
6 "Denied" on the application and date and sign such notation.

7 (2) If the application is denied, the Clerk-responsible department shall
8 attach to the application a statement of the reasons for the denial. Such notice shall
9 also provide that the license applicant may appeal the denial pursuant to §Section
10 41.2805.

11 (3) If the application is granted, the Clerk-responsible department shall
12 attach to the application an aAdult bBusiness pPerformer lLicense.

13 (4) The application, as acted upon, and the license, if any, shall be
14 placed in the United States mail, first class postage prepaid, or hand delivered,
15 addressed to the license applicant at the residence address stated in the application in
16 accordance with the time frames established herein.

17 (e) The Clerk-responsible department shall grant the application and issue the
18 license unless the application is denied based on one of the grounds set forth in
19 sSubdivision (f) of this sSection.

20 (f) The Clerk-responsible department shall deny the application based on any
21 of the following grounds:

22 (1) The license applicant has made false, misleading, or fraudulent
23 statement of material fact in the application for an aAdult bBusiness pPerformer
24 lLicense.

25 (2) The license applicant is under 18 years of age.

26 (3) The aAdult bBusiness pPerformer lLicense is to be used for
27 performing in a business prohibited by laws of the state or County or a business that
28 does not have a valid aAdult bBusiness rRegulatory pPermit.

1 (4) The license applicant, has pled guilty, nolo contendere or been
2 convicted of an offense classified by this or any other state as a sex related offense
3 including crimes involving moral turpitude, prostitution, or obscenity subject to the time
4 periods established in §Subsections 85.21.020(c)(4)(A), (B), and (C).

5 (g) Failure of the responsible department~~Clerk~~ to render a decision on the
6 license within the time frames established by this sSection shall be deemed to
7 constitute an approval.

8 (h) Each aAdult bBusiness pPerformer lLicense, other than the temporary
9 license described in §Section 41.2803, shall expire one year from the date of issuance
10 and may be renewed only by filing with the ~~Clerk~~responsible department a written
11 request for renewal, accompanied by the annual license fee and a copy of the license to
12 be renewed. If said application conforms to the previously approved application and
13 there has been no change with respect to the license holder being convicted of any
14 crime classified by this or any other state as a sex~~-~~related offense and no other
15 grounds exist under sSubdivision (f) of this sSection, the ~~Clerk~~responsible department
16 or his or her designee shall renew the license for one year. If any ground set forth in
17 sSubdivision (f) of this sSection exists, then the license shall not be automatically
18 renewed and the notice, including notice of right to appeal, shall be provided as set forth
19 in sSubdivision (d)(2) of this sSection. The request for renewal shall be made at least
20 30 days before the expiration date of the license. Applications for renewal shall be
21 acted upon as provided herein for action upon applications for license. The
22 ~~Clerk's~~responsible department's denial of a renewal application is subject to the
23 provisions of §Section 41.2805.

24 **41.2805 Revocation/Suspension/Renewal/Denial of Adult Business Performer**
25 **License.**

26 (a) On determining that grounds for denial of a license, denial of a license
27 renewal, license revocation or license suspension exist, the ~~Clerk or his or her designee~~
28 responsible department shall furnish written notice of the proposed action to the

1 applicant/license holder.

2 (b) The decision of the Clerk-responsible department shall be appealable to a
3 designated hearing officer by filing a written request for a hearing with the Clerk
4 responsible department within 15 days following the day of mailing of the
5 Clerk's responsible department's decision. All such appeals shall be filed with the Clerk
6 responsible department and shall be public records. The Clerk-responsible department
7 shall issue a notice which shall set forth the time and place of a hearing before a
8 designated hearing officer which is within 30 days from the date the appeal was filed
9 and the ground or grounds upon which the proposed action is based, the pertinent San
10 Bernardino County Code sections, and a brief statement of the factual matters in
11 support thereof. The notice shall be mailed, postage prepaid, addressed to the last
12 known address of the applicant/license holder, or shall be delivered to the license holder
13 personally, at least ten days prior to the hearing date.

14 (c) At the hearing, the applicant/license holder shall have the right to offer
15 testimonial, documentary, and tangible evidence bearing upon the issues and may be
16 represented by counsel. The designated hearing officer shall not be bound by the
17 formal rules of evidence. Any hearing under this ~~S~~section may be continued for a
18 reasonable time for the convenience of a party or a witness at the request of the license
19 holder. Extensions of time or continuances sought by a license holder/appellant shall
20 not be considered delay on the part of the County or constitute failure by the County to
21 provide for prompt decisions on license suspensions or revocations.

22 (d) An application for a license or license renewal may be denied or a license
23 may be revoked or suspended, based on any of the following causes arising from the
24 acts or omissions of the applicant/license holder:

25 (1) The applicant/license holder has made any false, misleading, or
26 fraudulent statement of material fact in the application for a performer license.

27 (2) The applicant/licensee has pled guilty, nolo contendere or been
28 convicted of an offense classified by this or any other state as a sex--related offense

1 including crimes involving moral turpitude, prostitution, or obscenity subject to the time
2 periods established in §Subsections 85.21.020(c)(4)(A), (B), and (C).

3 (3) Failure to comply with the requirements of this cChapter.

4 (e) After holding the hearing in accordance with the provisions of this
5 sSection, if the designated hearing officer finds and determines that there are grounds
6 for the denial of the application or revocation or suspension of the license, the hearing
7 officer shall deny the application or revoke or suspend the license. The hearing officer
8 shall render a written decision that shall be hand delivered or overnight mailed to the
9 applicant/license holder within four business days of the hearing. The designated
10 hearing officer's failure to render such a decision within this time frame shall constitute
11 an approval of the application or a reinstatement of the license.

12 (f) In the event an application for a license or renewal is denied or a license is
13 revoked pursuant to this Ssection, another aAdult bBusiness pPerformer lLicense shall
14 not be granted to the applicant/licensee within 12 months after the date of such
15 decision.

16 (g) The decision of the hearing officer shall be final and no further
17 administrative appeal is available.

18 (h) The time for a court challenge to a decision of the hearing officer is
19 governed by Code of Civil Procedure §-section 1094.8.

20 (i) Notice of the Clerk's responsible department's or hearing officer's decision
21 and his or her the findings shall include citation to Code of Civil Procedure §section
22 1094.8.

23 (j) Any applicant or license holder whose license has been denied,
24 suspended, or revoked, pursuant to this section shall be afforded prompt judicial review
25 of that decision as provided by Code of Civil Procedure §section 1094.8.

26 **41.2806 Display of License Identification Cards.**

27 The Clerk-responsible department shall provide each performer/adult cabaret
28 dancer required to have a license pursuant to this cChapter with an identification card

1 containing the name, address, photograph, and license number of such performer/adult
2 cabaret dancer. Every performer/adult cabaret dancer shall have such card available
3 for inspection at all times during which he or she is on the premises of the adult
4 business at which he or she performs.

5 **41.2807 Adult Business Performer License Nontransferable.**

6 No aAdult bBusiness pPerformer lLicense may be sold, transferred, or assigned
7 by any license holder or by operation of law, to any other person, group, partnership,
8 corporation, or any other entity. Any such sale, transfer, or assignment, or attempted
9 sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of the
10 aAdult bBusiness pPerformer lLicense, and the license thereafter shall be null and void.

11 **41.2808 Violations.**

12 (a) Any license holder violating or causing the violation of any of these
13 provisions regulating aAdult bBusiness pPerformer lLicenses shall be subject to license
14 revocation/suspension pursuant to §Section 41.2805 above, a fine of not more than
15 \$1,000.00 pursuant to Government Code §§sections 36900 and 3690125132 and
16 53069.4, and any and all other civil remedies. All remedies provided herein shall be
17 cumulative and not exclusive. Any violation of these provisions shall constitute a
18 separate violation for each and every day during which such violation is committed or
19 continued.

20 (b) In addition to the remedies set forth in §Section 41.2805, any violation of
21 any of these provisions regulating aAdult bBusiness pPerformer lLicenses is hereby
22 declared to constitute a public nuisance and may be abated or enjoined.

23 (c) The restrictions imposed pursuant to this section are part of a regulatory
24 licensing process, and do not constitute a criminal offense. Notwithstanding any other
25 provision of the San Bernardino County Code, the County does not impose a criminal
26 penalty for violations of the provisions of this cChapter related to sexual conduct or
27 activities.

28 **41.2809 Regulation Non-Exclusive.**

1 The provisions of this Chapter regulating adult business performer licenses are
2 not intended to be exclusive, and compliance therewith shall not excuse noncompliance
3 with any other regulations pertaining to the licensing provisions as adopted by the
4 County Board of Supervisors.

5 **41.2810 Severability.**

6 This Chapter and each section and provision of said Chapter hereunder, are
7 hereby declared to be independent divisions and subdivisions and, notwithstanding any
8 other evidence of legislative intent, it is hereby declared to be the controlling legislative
9 intent that if any provisions of said Chapter, or the application thereof to any person or
10 circumstance is held to be invalid, the remaining sections or provisions and the
11 application of such sections and provisions to any person or circumstances other than
12 those to which it is held invalid, shall not be affected thereby, and it is hereby declared
13 that such sections and provisions would have been passed independently of such
14 section or provision so known to be invalid. Should any procedural aspect of this
15 Chapter be invalidated, such invalidation shall not affect the enforceability of the
16 substantive aspects of this Chapter.

17
18 SECTION 2. This ordinance shall take effect thirty (30) days from the date of
19 adoption.

20
21 _____
CURT HAGMAN, Chairman
Board of Supervisors

22
23 SIGNED AND CERTIFIED THAT A COPY
24 OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

25 LYNNA MONELL, Clerk of the
26 Board of Supervisors

27
28 _____

1
2 STATE OF CALIFORNIA)
3 COUNTY OF SAN BERNARDINO) ss.

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of the County of San
5 Bernardino, State of California, hereby certify that at a regular meeting of the Board of
6 Supervisors of said County and State, held on the _____ day of _____, 2020 at
7 which meeting were present Supervisors: _____

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
9 to wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official
14 seal of the Board of Supervisors this _____ day of _____, 2020

15 LYNNA MONELL, Clerk of the
16 Board of Supervisors of the
17 County of San Bernardino,
18 State of California

19 _____
20 Deputy

21 Approved as to Form:

22 MICHELLE D. BLAKEMORE
23 County Counsel

24 By: _____
25 KENNETH C. HARDY
26 Supervising Deputy County Counsel

27 Date: _____
28