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**ORDINANCE NO. 4379**

**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 chapter shall be governed by the definitions found in Section 810.01.030(m) of the County Development Code unless otherwise stated.

1 **41.2802 Purpose.**

2 It is the purpose and intent of this 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-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 adult business performer license  
26 issued by the County.

27 (b) The responsible department shall grant, deny, and renew adult business  
28 performer licenses in accordance with these regulations.

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

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

6 (2) Principal place of residence.

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

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

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

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

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

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

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

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

26 (d) The information provided above in subdivision (c) of this section which is  
27 personal, private, confidential or the disclosure of which could expose the applicant to  
28 the risk of harm will not be disclosed under the California Public Records Act or the

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

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

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

26 (g) This temporary adult business performer license shall authorize the  
27 license applicant to commence performance at an adult business establishment that  
28 possesses a valid adult business regulatory permit authorized to provide live

1 entertainment.

2 (h) The fact that a license applicant possesses other types of state or city  
3 permits or licenses does not exempt the license applicant from the requirement of  
4 obtaining an adult business performer license.

5 **41.2804 Investigation and Action on Application for Adult Business**  
6 **Performer License.**

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

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

24 (c) The responsible department shall render a written decision to grant or  
25 deny the license within the time period set forth in subdivision (b) of this section. Said  
26 decision shall be mailed first class postage prepaid or hand delivered to the applicant  
27 within the foregoing 20-day period, or 40-day period if extended pursuant to subdivision  
28 (b) of this section, at the address provided by the applicant in the application.

1 (d) The responsible department shall notify the applicant as follows:

2 (1) The responsible department shall write or stamp "Granted" or  
3 "Denied" on the application and date and sign such notation.

4 (2) If the application is denied, the responsible department shall attach  
5 to the application a statement of the reasons for the denial. Such notice shall also  
6 provide that the license applicant may appeal the denial pursuant to Section 41.2805.

7 (3) If the application is granted, the responsible department shall attach  
8 to the application an adult business performer license.

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

13 (e) The responsible department shall grant the application and issue the  
14 license unless the application is denied based on one of the grounds set forth in  
15 subdivision (f) of this section.

16 (f) The responsible department shall deny the application based on any of  
17 the following grounds:

18 (1) The license applicant has made false, misleading, or fraudulent  
19 statement of material fact in the application for an adult business performer license.

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

21 (3) The adult business performer license is to be used for performing in  
22 a business prohibited by laws of the state or County or a business that does not have a  
23 valid adult business regulatory permit.

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

28 (g) Failure of the responsible department to render a decision on the license

1 within the time frames established by this section shall be deemed to constitute an  
2 approval.

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

18 **41.2805 Revocation/Suspension/Renewal/Denial of Adult Business Performer**  
19 **License.**

20 (a) On determining that grounds for denial of a license, denial of a license  
21 renewal, license revocation or license suspension exist, the responsible department  
22 shall furnish written notice of the proposed action to the applicant/license holder.

23 (b) The decision of the responsible department shall be appealable to a  
24 designated hearing officer by filing a written request for a hearing with the responsible  
25 department within 15 days following the day of mailing of the responsible department's  
26 decision. All such appeals shall be filed with the responsible department and shall be  
27 public records. The responsible department shall issue a notice which shall set forth the  
28 time and place of a hearing before a designated hearing officer which is within 30 days

1 from the date the appeal was filed and the ground or grounds upon which the proposed  
2 action is based, the pertinent San Bernardino County Code sections, and a brief  
3 statement of the factual matters in support thereof. The notice shall be mailed, postage  
4 prepaid, addressed to the last known address of the applicant/license holder, or shall be  
5 delivered to the license holder personally, at least ten days prior to the hearing date.

6 (c) At the hearing, the applicant/license holder shall have the right to offer  
7 testimonial, documentary, and tangible evidence bearing upon the issues and may be  
8 represented by counsel. The designated hearing officer shall not be bound by the  
9 formal rules of evidence. Any hearing under this section may be continued for a  
10 reasonable time for the convenience of a party or a witness at the request of the license  
11 holder. Extensions of time or continuances sought by a license holder/appellant shall  
12 not be considered delay on the part of the County or constitute failure by the County to  
13 provide for prompt decisions on license suspensions or revocations.

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

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

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

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

24 (e) After holding the hearing in accordance with the provisions of this section,  
25 if the designated hearing officer finds and determines that there are grounds for the  
26 denial of the application or revocation or suspension of the license, the hearing officer  
27 shall deny the application or revoke or suspend the license. The hearing officer shall  
28 render a written decision that shall be hand delivered or overnight mailed to the



1 applicant/license holder within four business days of the hearing. The designated  
2 hearing officer's failure to render such a decision within this time frame shall constitute  
3 an approval of the application or a reinstatement of the license.

4 (f) In the event an application for a license or renewal is denied or a license is  
5 revoked pursuant to this section, another adult business performer license shall not be  
6 granted to the applicant/licensee within 12 months after the date of such decision.

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

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

11 (i) Notice of the responsible department's or hearing officer's decision and  
12 the findings shall include citation to Code of Civil Procedure section 1094.8.

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

16 **41.2806 Display of License Identification Cards.**

17 The responsible department shall provide each performer/adult cabaret dancer  
18 required to have a license pursuant to this chapter with an identification card containing  
19 the name, address, photograph, and license number of such performer/adult cabaret  
20 dancer. Every performer/adult cabaret dancer shall have such card available for  
21 inspection at all times during which he or she is on the premises of the adult business at  
22 which he or she performs.

23 **41.2807 Adult Business Performer License Nontransferable.**

24 No adult business performer license may be sold, transferred, or assigned by any  
25 license holder or by operation of law, to any other person, group, partnership,  
26 corporation, or any other entity. Any such sale, transfer, or assignment, or attempted  
27 sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of the  
28 adult business performer license, and the license thereafter shall be null and void.

1     **41.2808     Violations.**

2           (a)     Any license holder violating or causing the violation of any of these  
3 provisions regulating adult business performer licenses shall be subject to license  
4 revocation/suspension pursuant to Section 41.2805 above, a fine of not more than  
5 \$1,000.00 pursuant to Government Code sections 25132 and 53069.4, and any and all  
6 other civil remedies. All remedies provided herein shall be cumulative and not  
7 exclusive. Any violation of these provisions shall constitute a separate violation for each  
8 and every day during which such violation is committed or continued.

9           (b)     In addition to the remedies set forth in Section 41.2805, any violation of  
10 any of these provisions regulating adult business performer licenses is hereby declared  
11 to constitute a public nuisance and may be abated or enjoined.

12           (c)     The restrictions imposed pursuant to this section are part of a regulatory  
13 licensing process, and do not constitute a criminal offense. Notwithstanding any other  
14 provision of the San Bernardino County Code, the County does not impose a criminal  
15 penalty for violations of the provisions of this chapter related to sexual conduct or  
16 activities.

17     **41.2809     Regulation Non-Exclusive.**

18           The provisions of this chapter regulating adult business performer licenses are  
19 not intended to be exclusive, and compliance therewith shall not excuse noncompliance  
20 with any other regulations pertaining to the licensing provisions as adopted by the  
21 County Board of Supervisors.

22     **41.2810     Severability.**

23           This chapter and each section and provision of said chapter hereunder, are  
24 hereby declared to be independent divisions and subdivisions and, notwithstanding any  
25 other evidence of legislative intent, it is hereby declared to be the controlling legislative  
26 intent that if any provisions of said chapter, or the application thereof to any person or  
27 circumstance is held to be invalid, the remaining sections or provisions and the  
28 application of such sections and provisions to any person or circumstances other than


1 those to which it is held invalid, shall not be affected thereby, and it is hereby declared  
2 that such sections and provisions would have been passed independently of such  
3 section or provision so known to be invalid. Should any procedural aspect of this  
4 chapter be invalidated, such invalidation shall not affect the enforceability of the  
5 substantive aspects of this chapter.

6  
7 SECTION 2. This ordinance shall take effect thirty (30) days from the date of  
8 adoption.

9   
10 CURT HAGMAN, Chairman  
11 Board of Supervisors

12 SIGNED AND CERTIFIED THAT A COPY  
13 OF THIS DOCUMENT HAS BEEN DELIVERED  
14 TO THE CHAIRMAN OF THE BOARD

15 LYNNA MONELL, Clerk of the  
16 Board of Supervisors

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

5 I, LYNNA MONELL, Clerk of the Board of Supervisors of the County of San  
6 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
7 Supervisors of said County and State, held on the 7th day of April, 2020 at which  
8 meeting were present Supervisors: Robert A. Lovingood, Janice Rutherford, Dawn  
9 Rowe, Curt Hagman, Josie Gonzales, and the Clerk, the foregoing ordinance was  
10 passed and adopted by the following vote, to wit:

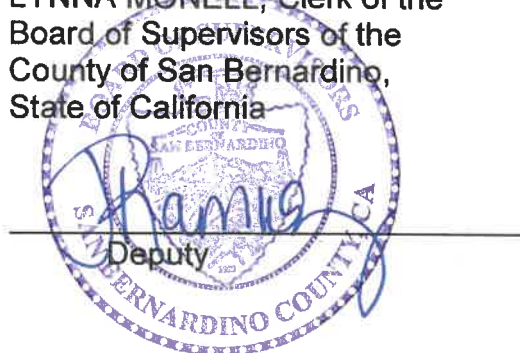
11 AYES: SUPERVISORS: Robert A. Lovingood, Janice Rutherford,  
12 Dawn Rowe, Curt Hagman, Josie Gonzales

13 NOES: SUPERVISORS: None

14 ABSENT: SUPERVISORS: None

15 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official  
16 seal of the Board of Supervisors this 7th day of April, 2020

17 LYNNA MONELL, Clerk of the  
18 Board of Supervisors of the  
19 County of San Bernardino,  
20 State of California



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: 5/7/2020  
28