

EMERGENCY ORDINANCE NO. _____
(New Series)

12398

0.79-13
Rev.

AUG 4 1978

AN ORDINANCE TEMPORARILY PROHIBITING THE ESTABLISHMENT IN THE CITY OF SAN DIEGO OF "ADULT ENTERTAINMENT" BUSINESSES, AS DEFINED HEREIN, DECLARING THE EXISTENCE OF AN EMERGENCY, AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

WHEREAS, The City of San Diego is presently considering the need for regulation of adult entertainment establishments due to the blighting and deteriorating effects such establishments have had upon commercial areas of the City. Accordingly, it is necessary, in order to protect and preserve the public peace, health, safety and welfare, that these businesses be regulated in such a manner as to prevent the continued erosion of the character of the affected neighborhoods. Pending further study of these deleterious effects and the development and adoption of appropriate remedial regulations, it is necessary to prohibit, on an interim basis, the establishment of such "adult entertainment" businesses within the City of San Diego so as to avoid substantially negating the ultimate effect of such remedial regulations; and

WHEREAS, this ordinance is urgently required as an emergency measure in order to immediately preserve the public peace, health, safety and welfare by halting the further concentration or proliferation of "adult entertainment" businesses. The concentration of such businesses has demonstrably resulted in a proliferation of

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criminal activity in the affected areas and has further had a blighting and degrading effect upon their surrounding neighborhoods. In order that the continued deterioration of these areas of the City not occur while the appropriate permanent regulations are being developed and adopted, it is necessary that this interim ordinance take effect immediately.

Section 1. PROHIBITION

For a period of six months, or until such time as a permanent "adult entertainment" zoning ordinance is adopted, whichever should first occur, no person shall cause or permit the establishment of any of the following "adult entertainment" businesses, as defined in Section 2 hereof, within the City of San Diego: Adult Bookstore, Adult Mini Motion Picture Theater, Adult Motel, Adult Motion Picture Arcade, Adult Motion Picture Theater, Cabaret, Massage Parlor, Model Studio, Sexual Encounter Center, Rap Parlor, Message Parlor or similar business.

The "establishment" of an "adult entertainment" business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in Section 3 hereof.

Section 2. DEFINITIONS

A. As used in this ordinance, the terms "Sexual Conduct" and "Specified Anatomical Areas" shall mean as follows:

1. "Sexual Conduct" includes the following:
 - a. The fondling or other touching of human genitals, pubic region, buttocks, or female breasts.

b. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy;

c. Masturbation; and

d. Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

2. "Specified Anatomical Areas" include the following: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

B. For purposes of this ordinance, the "adult entertainment" businesses listed in Section 4 hereof are defined as follows:

1. Adult Bookstore

An establishment having as a significant portion of its stock-in-trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

2. Adult Mini Motion Picture Theater

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

3. Adult Motel

A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

4. Adult Motion Picture Arcade

Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

5. Adult Motion Picture Theater

An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

6. Cabaret

A nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."

7. Massage Parlor

Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with "Sexual Conduct," or

where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."

8. Model Studio

Any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any general educational institution or to any school offering a general curriculum in art.

9. Sexual Encounter Center, Rap Parlor, Message Parlor or Similar Business

Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in "Sexual Conduct" or exposing "Specified Anatomical Areas."

Section 3. PENALTY FOR VIOLATION

Violation of this ordinance is punishable by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each day during any portion of which any violation of this ordinance is committed, permitted or continued shall constitute a separate offense.

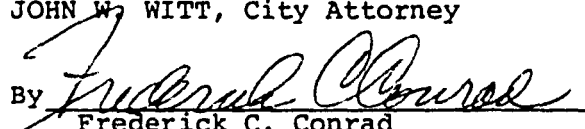
Section 4. SEVERABILITY

If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

Section 7. This ordinance shall become effective immediately.

APPROVED: JOHN W. WITT, City Attorney

By


Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
7/21/78 Rev. 8/8/78
Or.Dept.:
501.15

AUG 4 1978

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Betty Gooding, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on
AUG 4 1978, said ordinance being of the kind and character
authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not
less than a majority of the members elected to the Council, and that there was available for the consideration
of each member of the Council and the public prior to the day of its passage a written or printed copy of said
ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Betty Gooding, Deputy.

RECEIVED
CITY CLERK'S OFFICE
1978 AUG -9 PM 2:02
SAN DIEGO, CALIF.

CC-1255-B (REV. 11-77)

Office of the City Clerk, San Diego, California	
Ordinance Number	<u>12398</u> Adopted <u>AUG 4 1978</u>

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JK

ATTORNEY(S)

San Diego, City of
12th Floor, City Admin. Bldg.
202 C St.
San Diego, Ca 92101
Attn: Betty Goldberg

CERTIFICATE OF PUBLICATION

No. 12398

IN THE MATTER OF

"ADULT ENTERTAINMENT" BUSINESSES

EMERGENCY ORDINANCE NO. 12398

(New Series)

AN ORDINANCE TEMPORARILY PROHIBITING THE ESTABLISHMENT IN THE CITY OF SAN DIEGO OF "ADULT ENTERTAINMENT" BUSINESSES, AS DEFINED HEREIN; DECLARING THE EXISTENCE OF AN EMERGENCY, AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT.

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WHEREAS, this ordinance is urgently required as an emergency measure in order to immediately preserve the public peace, health, safety and welfare by halting the further concentration or proliferation of "adult entertainment" businesses. The concentration of such businesses has demonstrably resulted in a proliferation of criminal activity in the affected areas and has further had a blighting and degrading effect upon their surrounding neighborhoods. In order that the continued deterioration of these areas of the City not occur while the appropriate permanent regulations are being developed and adopted, it is necessary that this interim ordinance take effect immediately.

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Section 2. DEFINITIONS

A. As used in this ordinance, the terms "Sexual Conduct" and "Specified Anatomical Area" shall mean as follows:

1. "Sexual Conduct" includes the following:
 - a. The fondling or other touching of human genitals, pubic region, buttocks, or female breasts.
 - b. Ullimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy.
 - c. Masturbation; and
 - d. Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.
2. "Specified Anatomical Area" includes the following: human mouth, pubic region, buttocks, and female breasts below a point immediately above the top of the breasts.

I, **EVE C. LASH**, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

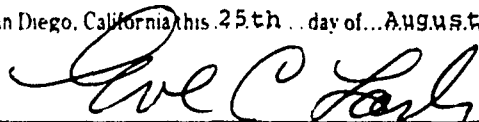
EMERGENCY ORDINANCE NO. 12398

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to-wit:

August 21, 1978

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 25th day of AUGUST 1978.



(Signature)

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12398

Article 10. - Amusement Devices

1. Adult Machine Picture Shows
 An establishment having as a significant portion of its stock-in-trade, books, films, magazines, and other periodicals which are classified or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

2. Adult Motion Picture Shows
 An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

3. Adult Shows
 A social gathering material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

4. Adult Motion Picture Arcade
 Any place to which the public is recruited or invited whereby any or all operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons any machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

5. Adult Shows
 An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

6. Cabaret
 A nightclub, lounge, or other establishment which receives its entertainment by means of any performance, such as singing, dancing, music, comedy, burlesque, or other entertainment, which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

7. Motion Picture Shows
 Any place to which the public is recruited or invited whereby any or all operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons any machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

8. Adult Shows
 Any place to which the public is recruited or invited whereby any or all operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons any machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Sexual Association".

Section 2. PENALTY FOR VIOLATION
 Violation of this ordinance is punishable by a fine not exceeding two hundred dollars (\$200.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each day during any portion of which any violation of this ordinance is committed, persisted or continued shall constitute a separate offense.

Section 3. SEVERABILITY
 If any provision or clause of this ordinance or the application thereof to any person or premises is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

Section 7. This ordinance shall have no effect unless approved, passed and adopted by the Council of The City of San Diego on August 4, 1978, by the following vote:
YEAS: Marshall, Lavery, Schenkolt, Gade, Gilson, Wilson.
NAYS: None.
ABSENT: O'Connor, Williams, Hays.
AUTHENTICATED BY:
PETE WILSON,
 Mayor of The City of San Diego, California.
CHARLES G. ABDELMOULT,
 City Clerk of The City of San Diego, California.
 By **HELENE GILL-LEWIS,** Deputy

SEALED
 Pub. Aug. 21, 1978

Page 2 of 2

12398

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