

ORDINANCE NO. 12570
(New Series)

0.79-145
FEB 5 1979

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 103.0408 AND ADDING SECTION 103.0408.1 CONCERNING THE GASLAMP QUARTER PLANNED DISTRICT IN REGARD TO ADULT ENTERTAINMENT AND GROUND FLOOR OFFICE USES.

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

Section 1. That Chapter X, Article 3, Division 4 of the San Diego Municipal Code be, and it is hereby amended by amending Section 103.0408 and adding Section 103.0408.1 to read as follows:

SEC. 103.0408 PERMITTED USES.

In the Gaslamp Quarter no building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following purposes:

1. Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:
 - a. Antique shops.
 - b. Art galleries.
 - c. Bakeries.
 - d. Barber shops.
 - e. Beauty shops.
 - f. Bicycle shops.
 - g. General bookstore. A general bookstore is an establishment engaged in the buying, selling or

trading of new and/or used books and periodicals of general interest. A general bookstore does not include an establishment that devotes more than 15 percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" as defined in Section 103.0408.1; or

(2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

h. Boutiques.

i. Camera shops.

j. Card rooms.

k. Clothing stores.

l. Confectionaries (candy stores).

m. Decorator and home accessory shops.

n. Delicatessens.

o. Drugstores.

p. Financial institutions, subject to the following provision: That they be limited to occupying a maximum of 25% of the parcel width not to exceed 25 feet in the front 50% of each parcel.

The full width of the parcel may be occupied in the rear 50% of the parcel.

- q. Florists
- r. Food stores not exceeding 10,000 sq. ft.
- s. Gift and novelty shops.
- t. Hardware stores.
- u. Hobby shops.
- v. Ice cream parlors.
- w. Import and art objects stores.
- x. Jewelry stores.
- y. Locksmith shops.
- z. Leather goods stores.
- aa. Liquor stores.
- bb. Luggage shops.
- cc. Nightclubs. Excluding a nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- dd. Nurseries.
- ee. Music stores.
- ff. Open air cafes (sidewalk cafes not located in a public right-of-way).

gg. Pawn shops.

hh. Arcades. Excluding 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 "specified sexual activities" or "specified anatomical areas."

ii. Pet shops.

jj. Photographic studios. Excluding any establishment open to the public 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, other than the proprietor, paying such consideration or gratuity.

This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution which meets the requirements established in the Education Code of the State of California for the issuance of, and, in fact, authorized thereunder to issue and confer a diploma.

kk. Post offices.

ll. Wholesale produce markets for the sale of fresh fruit, produce, flowers, plants, meat, poultry, and groceries.

- mm. Saloons, pubs, etc.
- nn. Restaurants, excluding drive-in and drive-through.
- oo. Shoe stores.
- pp. Shoe repair shops.
- qq. Shoe shine parlors.
- rr. Sporting goods stores.
- ss. Stationers and card shops.

tt. Studios for art, dance, music. Excluding any establishment open to the public 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, other than the proprietor, paying such consideration or gratuity.

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uu. Supper clubs, excluding those establishments described under cc. "Nightclubs."

vv. Tobacco shops.

ww. Travel bureaus.

xx. Theaters. Excluding an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic

reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

yy. Variety shops.

zz. Wedding shops.

aaa. Business and professional office uses. Such uses may include accountants, advertising agencies, architects, attorneys, contractors, doctors, engineers, insurance brokers, securities brokers, surveyors, and graphic artists.

2. The following uses shall be permitted only above or below the first floor:

a. Business machines sales display and service.

b. Drafting and blueprint services.

c. Medical appliances sales.

d. Office furniture and equipment sales.

e. Furniture stores.

f. Photographic equipment, supplies and film processing.

g. Funeral parlors.

h. Newspaper plants.

i. Lithography shops.

j. Radio and TV stations.

- k. Wholesaling and warehousing.
- l. Hotels and motels.
- m. Addressing, secretarial and telephone answering services.
- n. Electronic data processing, tabulating, and record keeping.
- o. Labor unions and trade associations.
- p. Medical, dental, biological, and X-ray laboratories.
- q. Private clubs, fraternal organizations, and lodges.
- r. Dwelling units.

3. Specialized Uses.

a. Charitable organizations (nonprofit or otherwise) and their attendant activities. These may include the collection, manufacture, sale and/or distribution of food, lodging or other forms of contact and related activities.

b. Churches, temples or buildings of a permanent nature used primarily for religious purposes.

c. Museums.

d. Tourist and historical information centers. A public facility wherein visitors and/or residents are given assistance and information about the historical nature of the Gaslamp Quarter and downtown area.

4. Street uses in the Fifth Avenue right-of-way where such uses are consistent with the 1880-1910 era:

a. Flower sales, musicians, newsstands, shoe shine parlors and street vendors (popcorn, ice cream, hot dogs, balloons, and similar merchandise).

b. Awnings, canopies, and marquees no closer than two feet from the curb line.

c. Street furniture, including street lights, benches, fountains, flags, water troughs, and similar street fixtures.

5. Any other use which the Planning Commission may find to be similar in character to the uses, including accessory uses, enumerated in this section and consistent with the purpose and intent of this district. The adopted resolution embodying such finding shall be filed in the office of the City Clerk.

SEC. 103.0408.1 DEFINITIONS

It is the intent to provide clear and concise definitions of those words, terms and phrases utilized in the permitted and excepted uses of Section 103.0408.

A. SPECIFIED SEXUAL ACTIVITIES

As used herein, "specified sexual activities" shall mean and include any of the following:

1. The fondling or other touching of human genitals, pubic region, buttocks, anus or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

3. Masturbation, actual or simulated; or

4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

B. SPECIFIED ANATOMICAL AREAS

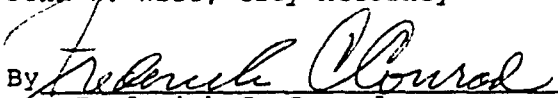
As used herein, "specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, public region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
12/4/78
Or.Dept.:Planning

PROPOSED REVISIONS TO GASLAMP QUARTER PLANNED DISTRICT

RE: ADULT ENTERTAINMENT, AND OFFICE USES ON GROUND FLOOR

SEC. 103.0408 PERMITTED USES

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 - f. Bicycle shops
 - g. General Book Store. A General Bookstore is an establishment engaged in the buying, selling or trading of new and/or used books and periodicals of general interest. A General Bookstore does not include an establishment that devotes

more than 15 percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" as defined in SEC. 103.0408.1; or

(2) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".

- h. Boutiques
- i. Camera shops
- j. Card rooms
- k. Clothing stores
- l. Confectionaries (candy stores)
- m. Decorator and home accessory shops
- n. Delicatessens
- o. Drug stores

- p. Financial Institutions, subject to the following provision:
That they be limited to occupying a maximum of 25% of the parcel width not to exceed 25 feet in the front 50% of each parcel. The full width of the parcel may be occupied in the rear 50% of the parcel.
- q. Florists
- r. Food stores not exceeding 10,000 sq. ft.
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- t. Hardware stores
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- v. Ice cream parlors
- w. Import and art objects stores
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- dd. Nurseries
- ee. Music stores
- ff. Open air cafes (sidewalk cafes not located in public right-of-way)
- gg. Pawn shops
- hh. Arcades. Excluding 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 "specified sexual activities" or "specified anatomical areas"
- ii. Pet shops
- jj. Photographic Studios. Excluding any establishment open to the public 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 other than the proprietor, paying such consideration or gratuity.

This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership,

corporation or institution which meets the requirements established in the Education Code of the State of California for the issuance of, and in fact authorized thereunder to issue and confer a diploma.

- kk. Post offices
- ll. Wholesale produce markets for the sale of fresh fruit, produce, flowers, plants, meat, poultry, and groceries.
- mm. Saloons, pubs, etc.
- nn. Restaurants, excluding drive-in and drive-through.
- oo. Shoe stores
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- yy. Variety shops
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- ~~m. Business and professional office uses. Such uses may include accountants, advertising agencies, architects, attorneys, contractors, doctors, engineers, financial institutions, insurance brokers, securities brokers, surveyors, and graphic artists.~~
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Passed and adopted by the Council of The City of San Diego on FEB 5 1979
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
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 checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 23 1979

FEB 5 1979

, and on _____

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

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 DEC 20 THU 4:26

SAN DIEGO, CALIF.

CC-1255-A (REV. 10-78)

Office of the City Clerk, San Diego, California	
Ordinance Number <u>12570</u>	Adopted <u>FEB 5 1979</u>

XXXXXXXXXX

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

Att: Betty Goldberg

CERTIFICATE OF PUBLICATION



Adult Entertainment

ORDINANCE NO. 12570

(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 103.0408 AND ADDING SECTION 103.0408.1 CONCERNING THE GASLAMP QUARTER PLANNED DISTRICT IN REGARD TO ADULT ENTERTAINMENT AND GROUND FLOOR OFFICE USES.

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Patricia M. Spaulding

I, Patricia M. Spaulding, am a citizen of the United States and do hereby certify that 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, on the date of January 24, 1969, Decree No. 14894; and the

ORDINANCE NO. 12570

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

February 19, 1979

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

Dated at San Diego, California this 27th day of Feb., 1979.

Patricia M. Spaulding
Signature

39 - 236 - 73

