

(O-82-129)

ORDINANCE NUMBER O- 15810 (New Series)

Adopted on SEP 13 1982

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 18 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION NOS. 101.1801.3, 101.1801.19 AND 101.1810 AND BY DELETING SECTION NOS. 101.1801.4 THROUGH 101.1801.14 AND INCORPORATING THE MATERIAL THEREFROM INTO AMENDED SECTION 101.1801.3, RELATING TO ADULT ENTERTAINMENT

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

Section 1. That Chapter X, Article 1, Division 18 of the San Diego Municipal Code be, and it is hereby amended by amending Section Nos. 101.1801.3, 101.1801.19 and 101.1810 to read as follows:

SEC. 101.1801.3 ADULT ENTERTAINMENT ESTABLISHMENT

An adult entertainment establishment is any place of business at which one or more of the following activities is conducted:

A. ADULT BOOKSTORE

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, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or

"specified anatomical areas"; or

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

An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than 15 percent of the total floor area of the establishment to the sale of books and periodicals.

B. ADULT MOTION PICTURE THEATER

An establishment, with a capacity of 50 or more persons, 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 distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

C. ADULT MINI-MOTION PICTURE THEATER

An establishment, with a capacity of more than five but less than 50 persons, 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 distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities"

or "specified anatomical areas" for observation by patrons.

D. 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 "specified sexual activities" or "specified anatomical areas."

E. ADULT DRIVE-IN THEATER

An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons.

F. ADULT CABARET

A nightclub, bar, restaurant or similar establishment which regularly features live performances which are distinguished or characterized by an emphasis on "specified sexual activities" or by exposure of "specified anatomical areas" and/or which regularly features films, motion pictures, video cassettes, slides or other photographic

reproductions which are distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

G. ADULT MOTEL

A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

H. ADULT THEATER

A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on "specified sexual activities" or by exposure of "specified anatomical areas" for observation by patrons.

I. ADULT MODEL STUDIO

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 or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

J. SEXUAL ENCOUNTER ESTABLISHMENT

An establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.

For the purposes of this Division, SEXUAL ENCOUNTER CENTER shall include MASSAGE OR RAP PARLOR and other similar establishments.

K. BODY PAINTING STUDIO

Any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude in terms of "specified anatomical areas."

L. MASSAGE ESTABLISHMENT

1. An establishment where, for any form of consideration, massage, alcohol rub, fomentation,

electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the State of California. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

2. A massage establishment which provides only specialized massage services and is operated in accordance with the following provisions shall not be considered an adult entertainment establishment and shall not be subject to the provisions of Municipal Code, Section 101.1810:

a. Any sign advertising the premises shall contain the full name of the applicant, and may contain words which identify the specialized field of practice in which the applicant engages.

b. The letters of any words identifying the specialized field of practice in which the applicant engages shall not exceed one-half of the vertical height of the capital letters in the name of the applicant, and such words shall be uniform in height.

c. The phrase "massage parlor or

establishment" shall not be used on any sign or any other form of advertising. The word "massage" shall not be used on any sign or other form of advertising unless preceded by words identifying the specialized field of practice.

d. Scale drawings of all signs to be displayed on the premises shall be submitted to the Zoning Administrator for determination of compliance with this section.

e. The applicant shall submit proof of proficiency in the specialized field of practice. Proficiency may be established by proof of actual practice in the field of specialization for a period of three years or completion of a course of instruction in the specialized field of practice at a school authorized to provide such instruction by the State of California. The period of practice shall be attested to, in writing, by no less than three persons who meet the educational qualifications described in this paragraph or are members of a professional organization which is incorporated in the State of California which fosters or promotes the specialized field of practice.

f. The application and business license for the establishment shall identify the business as a "Massage Establishment, Specialized Practice, pursuant to Municipal Code, Section 101.1801.3

L.2."

SEC. 101.1801.19 ESTABLISHING AN ADULT ENTERTAINMENT
BUSINESS

As used herein, the "establishing" of an adult entertainment business shall mean and include any of the following:

A. The opening or commencement of any such business as a new business;

B. The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business as defined herein.

C. The addition of any adult entertainment business as defined herein to any other existing adult entertainment business if the addition results in enlargement, as defined in Section 101.1810, of the place of business.

SEC. 101.1810 PROHIBITION

No person shall cause or permit the establishment, enlargement or transfer of ownership or control of any adult entertainment establishment if such establishment is within 1000 feet of another such business, 1000 feet of any residential zone, or within 1000 feet of any church, school, public park or social welfare institution within the City of San Diego.

An adult entertainment establishment shall not be permitted to be established, enlarged or transferred unless the provisions of the zone in which the site or proposed site is located permits such a use.

01052

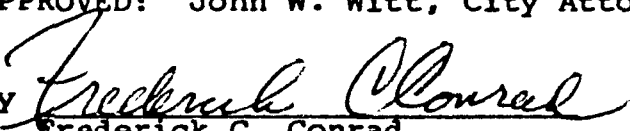
For purposes of this section, enlargement shall mean an increase in the size of the building within which the business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

Section 2. That Chapter X, Article 1, Division 18 of the San Diego Municipal Code be, and it is hereby amended by deleting Section Nos. 101.1801.4 through 101.1801.14, and incorporating the material therefrom into amended Section No. 101.1801.3.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: John W. Witt, City Attorney

By


Frederick C. Conrad

Chief Deputy City Attorney

FCC:clh:501.15
1/22/82
REV. 8/2/82
Or. Dept: Atty.
Form=o.none
O-82-129

NEW LANGUAGE - Underlined..
OLD LANGUAGE - Crossed Out

SEC. 101.1801.3 ~~ADULT-BOOKSTORE~~ ENTERTAINMENT ESTABLISHMENT

An adult entertainment establishment is any place of business at which one or more of the following activities is conducted:

A. ADULT BOOKSTORE

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:

~~(a)~~ 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

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

An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than 15 percent of the total floor area of the establishment to the sale of books and periodicals.

01054

0-15810

~~SEE--101-1001-4~~ B. ADULT MOTION PICTURE THEATER

An establishment, with a capacity of 50 or more persons, 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 distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

~~SEE--101-1001-5~~ C. ADULT MINI-MOTION PICTURE THEATER

An establishment, with a capacity of more than five but less than 50 persons, 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 distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

~~SEE--101-1001-6~~ D. 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 "specified sexual activities" or "specified anatomical areas."

SEC--101-1801-7 E. ADULT DRIVE-IN THEATER

An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons.

SEC--101-0801-8 F. ADULT CABARET

A nightclub, bar, restaurant or similar establishment which regularly features live performances which are distinguished or characterized by an emphasis on "specified sexual activities" or by exposure of "specified anatomical areas" and/or which regularly features films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

SEC. ~~101-1801-9~~ G. ADULT MOTEL.

A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

SEC. ~~101-1801-10~~ H. ADULT THEATER

A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on "specified sexual activities" or by exposure of "specified anatomical areas" for observation by patrons.

SEC. ~~101-1801-11~~ I. ADULT MODEL STUDIO

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 or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

~~SEC--101-1801-12~~ J. SEXUAL ENCOUNTER ESTABLISHMENT

An establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.

For the purposes of this Division, SEXUAL ENCOUNTER CENTER shall include MASSAGE OR RAP PARLOR and other similar establishments.

~~SEC--101-1801-13~~ K. BODY PAINTING STUDIO

Any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude in terms of "specified anatomical areas."

~~SEC--101-1801-14~~ L. MASSAGE ~~PARLOR~~ ESTABLISHMENT

1. An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar

professional person licensed by the State of California. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

2. A massage establishment which provides only specialized massage services and is operated in accordance with the following provisions shall not be considered an adult entertainment establishment and shall not be subject to the provisions of Municipal Code, Section 101.18 :

a. Any sign advertising the premises shall contain the full name of the applicant, and may contain words which identify the specialized field of practice in which the applicant engages.

b. The letters of any words identifying the specialized field of practice in which the applicant engages shall not exceed one-half of the vertical height of the capital letters in the name of the applicant, and such words shall be uniform in height.

c. The phrase "massage parlor ^{or establishment} shall not be used on any sign or any other form of advertising. The word "massage" shall not be used on any sign or other form of advertising unless preceded by words identifying the specialized field of practice.

d. Scale drawings of all signs to be displayed on the premises shall be submitted to the Zoning Administrator for determination of compliance with this section.

e. The applicant shall submit proof of proficiency in the specialized field of practice. Proficiency may be established by proof of actual practice in the field of specialization for a period of three years or completion of a course of instruction in the specialized field of practice at a school authorized to provide such instruction by the State of California. The period of practice shall be attested to, in writing, by no less than three persons who meet the educational qualifications described in this paragraph or are members of a professional organization which fosters or promotes the specialized field of practice which is incorporated in the State of California.

f. The application and business license for the establishment shall identify the business as a "Massage Establishment, Specialized Practice, pursuant to Municipal Code, Section 101.0801.3 L.2."

SEC. 101.1801.19 ESTABLISHING AN ADULT ENTERTAINMENT BUSINESS

As used herein, the "establishing" of an adult entertainment business shall mean and include any of the following:

- (a) A. The opening or commencement of any such business as a new business;

(b) B. The conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses as defined herein.

(c) C. The addition of any adult entertainment businesses as defined herein to any other existing adult entertainment business, or if the addition results in enlargement, as defined in Section 101.1801, of the place of business.

SEC. 101.1810 PROHIBITION

No person shall cause or permit the establishment, substantial enlargement or transfer of ownership or control of any ~~of the following establishments~~ adult entertainment establishment if such establishment is within 1000 feet of another such business, 1000 feet of any residential zone, or within 1000 feet of any church, school, public park or social welfare institution within the City of San Diego.

An ~~establishment-listed-in-this-section~~ adult entertainment establishment shall not be permitted to be established, enlarged or transferred unless the provisions of the zone in which the site or proposed site is located permits such a use.

A.--Adult-Bookstore

B.--Adult-Motion-Picture-Theater

C.--Adult-Mini-Motion-Picture-Theater

D.--Adult-Arcade

E.--Adult-Drive-In-Theater

F.--Adult-Cabaret

G.--Adult-Motel

H.--Adult-Theater

01061

I--Adult-Model-Studio

J--Sexual-Encounter-Center

K--Body-Painting-Studio

L--Massage-Parlor

M--Any-other-business-which-involves-"specified-sexual activities"-or-display-of-"specified-anatomical-areas."

No person shall cause or permit the establishment, enlargement or transfer of ownership or control of any adult entertainment establishment if such establishment is within 1000 feet of another such business, 1000 feet of any residential zone, or within 1000 feet of any church, school, public park or social welfare institution within the City of San Diego.

An adult entertainment establishment shall not be permitted to be established, enlarged or transferred unless the provisions of the zone in which the site or proposed site is located permits such a use.

For purposes of this section, enlargement shall mean an increase in the size of the building within which the business is conducted by either construction or use of an adjacent building or any portion thereof whether located on the same or an adjacent lot or parcel of land.

01062

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

SEP 13 1982

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 *Barbara Berridge*, 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

AUG 16 1982

SEP 13 1982

~~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 *Barbara Berridge*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15810 Adopted SEP 13 1982

CERTIFICATE OF PUBLICATION

SAN DIEGO, CITY OF
12th floor, 202 C St.
San Diego, CA 92101

ATTN: BERRIDGE

IN THE MATTER OF

NO.

ORDINANCE NO. O-15810

**ORDINANCE NO. O-15810
(NEW SERIES)**
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1
DIVISION 18 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION NOS. 181.18B.3, 181.18B.18 AND
181.18B.6, AND BY DELETING SECTION NOS. 181.18B.1
THROUGH 181.18B.14 AND INCORPORATING THE
MATERIAL THEREFROM INTO AMENDED SECTION
181.18B.3, RELATING TO ADULT ENTERTAINMENT.
The present ordinance identifies certain businesses as Adult
Entertainment Establishments in separate sections of the
Municipal Code. The revision defines within one section all of the
businesses previously listed in numerous sections as Adult
Entertainment Establishments.
The present ordinance of Message Establishment does not
provide an exception for holistic health practitioners. The revised
ordinance provides an exception and establishes operational
limitations on holistic health practitioners.
The present ordinance prohibits enlargement of an Adult
Entertainment Establishment, but does not define the term
"enlargement." The revision provides a definition of the term.
A complete copy of the Ordinance is available for inspection in
the Office of the City Clerk of the City of San Diego, 12th Floor, Ci-
ty Administration Building, 202 "C" Street, San Diego, CA 92101.
Introduced on AUGUST 18, 1982.
Passed and adopted by the Council of The City of San Diego
on SEPTEMBER 13, 1982.
AUTHENTICATED BY:
PETE WILSON, Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR, City Clerk of The City
of San Diego, California.
(S-AL)
By BARBARA BERRIDGE, Deputy
Publish September 27, 1982

I, Shelley Smith, 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

ORDINANCE NO. O-15810
(NEW SERIES)

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:

September 27, 1982

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

Dated at San Diego, California this 27th day of Sept, 19 82.

Shelley Smith
(Signature)

01064

3 1/8" x 2 x 8.872
55.44