

(O-85-202)

ORDINANCE NUMBER O- 16521 (NEW SERIES)

ADOPTED ON OCT 28 1985

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 90, SECTIONS 52.9001, 52.9002, 52.9003, 52.9004 AND 52.9005 RELATING TO STANDARDS OF CONDUCT AND ATTIRE FOR ENTERTAINERS AND EMPLOYEES OF ON-SALE LICENSED PREMISES.

WHEREAS, California Penal Code Section 318.5 permits local regulation of the conduct and attire of employees of establishments licensed by the State of California Department of Alcohol Beverage Control for the sale of alcoholic beverages to the public for consumption on the premises; and

WHEREAS, the practice of some local licensed establishments of violating State of California Department of Alcohol Beverage Control regulations prohibiting certain attire within such licensed establishments has gone on for years because of the lengthy administrative process; and

WHEREAS, the same establishments create continuing enforcement problems for the San Diego Police Department; NOW, THEREFORE,

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

Section 1. That Chapter V, Article 2, of the San Diego Municipal Code be and the same is hereby amended by adding Division 90, Sections 52.9001, 52.9002, 52.9003, 52.9004 and 52.9005 to read as follows:

DIVISION 90

SEC. 52.9001 PURPOSE AND INTENT

It is the purpose and intent of this division to provide for the orderly regulation of on-sale liquor establishments by establishing standards for attire and conduct to protect the public order and the general welfare of the citizens of the City of San Diego.

SEC. 52.9002 DEFINITION

Whenever used in this division, the phrase "on-sale licensed premises" shall mean a business licensed by the State of California Department of Alcoholic Beverage Control for the sale of alcoholic beverages to the public for consumption on the premises. This includes those businesses that may be on a suspension of such privileges, and those operating with a temporary license.

SEC. 52.9003 POLICE INSPECTION

All on-sale licensed premises shall be open for inspection by any San Diego Police Department officer during all hours of operation. Any licensee, operator or manager of an on-sale licensed premises who denies admission for inspection to any San Diego Police officer is guilty of a misdemeanor.

SEC. 52.9004 ATTIRE AND CONDUCT

Any person who engages in or who employs another person to engage in or any licensee or agent who causes or allows any person to engage in any of the following acts in an on-sale licensed premises is guilty of a misdemeanor:

(a) Selling or serving alcoholic beverages while such seller or server is unclothed or is clothed in such attire, costume or clothing as to expose to view any portion of the female breasts below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, the buttocks, vulva or genitals.

(b) Acting as a host or hostess or in a similar capacity or mingling with the patrons of the on-sale licensed premises while such host, hostess or person acting in a similar capacity is unclothed or is clothed in such attire, costume or clothing as described in subsection (a).

(c) Encouraging or permitting any person to touch, caress or fondle the breasts, buttocks, anus or genitals of any seller, server, host, hostess or employee of an on-sale licensed premises.

(d) Selling or serving alcoholic beverages or acting as a host or hostess or in a similar capacity or mingling with the patrons of an on-sale licensed premises while wearing any device or covering exposed to view, which simulates the breasts, genitals, anus, pubic hair or any portion thereof.

(e) Performing acts of or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any public sexual acts which are prohibited by law.

(f) Performing acts which include or which simulate the touching, caressing or fondling of the breasts, buttocks, anus or genitals.

(g) Performing acts which include or which simulate the displaying of the pubic hair, anus, vulva or genitals.

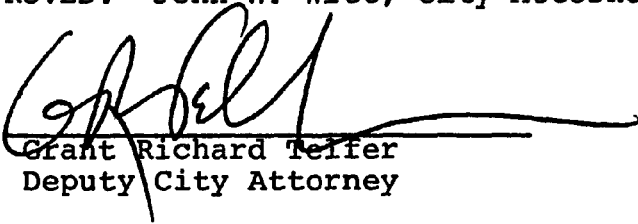
SEC. 52.9005 STAGE REQUIREMENTS

Any person whose breasts and/or buttocks are exposed to view and who performs or who is present unclothed or clothed in such attire, costume or clothing as described in Section 52.9004(a) at any public location within an on-sale licensed premises other than upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron is guilty of a misdemeanor.

Section 2. That 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

  
Grant Richard Teifer  
Deputy City Attorney

GRT:mem  
9/10/85  
Or.Dept:Police  
0-85-202  
Form=o.none

OCT 28 1985

Passed and adopted by the Council of The City of San Diego on .....  
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"/>	
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ed Struiksmma	<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"/>	
District 7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	VACANT
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Raymond G. Tolleson*, 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

OCT 14 1985

OCT 28 1985

, 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 *Raymond G. Tolleson*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16521 Adopted OCT 28 1985

C1445

CERTIFICATE OF PUBLICATION

THE CITY OF SAN DIEGO  
OFFICE OF THE CITY CLERK  
202 "C" STREET  
12TH FLOOR  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2, OF THE  
SAN DIEGO MUNICIPAL CODE

I, Gerald F. Blair, 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 NUMBER 0-16521 (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:

November 11, 1985

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

Dated at San Diego, California this 11th day of Nov., 19 85.

Gerald F. Blair  
(Signature)

2 x 2 x 9.76 = 39.04

C1146

