

(0-91-96)

ORDINANCE NUMBER O-17575 (NEW SERIES)

ADOPTED ON JAN 9 1991

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 42.0409 AND 42.0413, RELATING TO BATHHOUSES; RENUMBERING SECTIONS 42.0400, 42.0401, 42.0402, 42.0403, 42.0405 AND 42.0408; BY AMENDING AND RENUMBERING SECTIONS 42.0404, 42.0406, 42.0407; AND BY AMENDING SECTIONS 42.0415 AND 42.0416 RELATING TO BATHHOUSES.

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

Section 1. That Chapter IV, Article 2, Division 4, of the San Diego Municipal Code be amended by repealing sections 42.0409 and 42.0413.

Section 2. That Chapter IV, Article 2, Division 4, of the San Diego Municipal Code be amended by renumbering Sections 42.0400, 42.0401, 42.0402, 42.0403, 42.0405, and 42.0408 to read as follows:

<u>Old Section No.</u>	<u>New Section No.</u>	
42.0400	42.0401	[No change in text.]
42.0401	42.0402	[No change in text.]
42.0402	42.0403	[No change in text.]
42.0403	42.0404	[No change in text.]
42.0405	42.0406	[No change in text.]
42.0408	42.0409	[No change in text.]

Section 3. That Chapter IV, Article 2, Division 4, of the San Diego Municipal Code be amended by renumbering Sections 42.0404, 42.0406 and 42.0407 to 42.0405, 42.0407 and 42.0408,

respectively, and by amending these sections to read as follows:

SEC. 42.0405 APPLICATION FOR A BATHHOUSE PERMIT

The application for a permit to operate a bathhouse shall set forth the exact nature of the baths to be administered, the proposed place of business and facilities therefore, and the name and address of each applicant. In addition to the foregoing, any applicant for a bathhouse permit shall furnish the following information:

(a) through (h) [No change in text.]

(i) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than ten percent (10%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners.

SEC. 42.0407 FACILITIES NECESSARY

No permit to conduct a bathhouse shall be issued unless an inspection by the Director of Health Services reveals that the establishment complies with each of the following minimum requirements:

(a) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproof materials.

(1) Steam rooms and shower compartments shall have approved waterproof floors, walls and ceilings.

(2) Floors of wet and dry heat rooms shall be

adequately pitched to one or more floor drains properly connected to the sewer. (Exception: dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)

(3) A source of hot water shall be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(b) and (c) [No change in text.]

(d) All portions of bathhouse establishments and baths shall be provided with adequate light and ventilation by means of windows or skylights with an area of not less than 1/8 of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilating system. Areas of the bathhouse, other than those areas provided only to individual patrons, shall at all times during bathhouse operation have a direct illumination level of at least ten to twelve (10-12) footcandles of light measured thirty (30) inches above the floor. When windows or skylights are used for ventilation, at least 1/2 of the total required window area shall be operable.

SEC. 42.0408 OPERATING REQUIREMENTS

All bathhouse permittees shall comply with the following operating requirements:

(a) [No change in text.]

(b) All employees shall be clean and wear clean outer garments. Provisions for separate dressing rooms for each sex must be available on the premises, with individual

lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(c) through (e) [No change in text.]

Section 4. That Chapter IV, Article 2, Division 4, of the San Diego Municipal Code be amended by amending sections 42.0415 and 42.0416 to read as follows:

SEC. 42.0415 PRIVATE ROOMS

No private room, as hereinafter defined, shall be maintained within any bathhouse. "Private room" shall mean any enclosed space large enough for more than one person to enter with a door capable of being locked from the inside, unless one or more of the following applies.

(a) There is an opening of no less than five (5) feet nor more than six (6) feet above the floor through which the full interior of the enclosure is viewable from the exterior; or

(b) and (c) [No change in text.]

SEC. 42.0416 MONITORING AND EXPULSION OF CUSTOMERS

(a) No person shall operate a bathhouse unless employee-monitors are provided for the purpose of observation of activity on the bathhouse premises. At

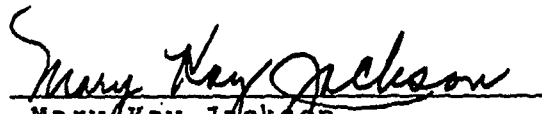
least one monitor shall be on duty at all times that the
bathhouse is open.

(b) [No change in text.]

Section 5. 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


Mary Kay Jackson
Deputy City Attorney

MKJ:mb:mrh:jrl
06/18/90
06/22/90
12/06/90
Or.Dept:Atty.
O-91-96
Form=o+t

JAN 9 1991

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

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Ellen Board*, 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

DEC 10 1990, and on JAN 9 1991

~~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 *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17575 Adopted JAN 9 1991

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE
91 JAN 28 AM 11:30
SAN DIEGO, CALIF.

CITY CLERK'S OFFICE
CITY ADMIN. BLDG.
202 C ST.
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS...

ORDINANCE NUMBER 0-17575 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 42.0409 AND 42.0413, RELATING TO BATHHOUSES; RENUMBERING SECTIONS 42.0400, 42.0401, 42.0402, 42.0403, 42.0405 AND 42.0406; BY AMENDING AND RENUMBERING SECTIONS 42.0404, 42.0406, 42.0407; AND BY AMENDING SECTIONS 42.0415 AND 42.0416 RELATING TO BATHHOUSES.

This ordinance amends the "Bathroom" Ordinance, San Diego Municipal Code sections 42.0400 et seq. As a result of settlement negotiations in a lawsuit challenging the constitutionality of the ordinance, some sections have been amended and two (2) have been repealed. Many of the sections are renumbered to conform with the City Clerk's automated system.

The proposed amendments include: deleting subsection (l) of Sec. 42.0404, requiring fingerprints and photographs of the applicant; deleting subsection (a) (l) of Sec. 42.0406, requiring floors and walls of toilet rooms and vestibules to be covered with water-proof materials; amending subsection (d) of Sec. 42.0406, to require 10-12 footcandles of light instead of 15 footcandles of light and deleting the requirement that partitions in areas without direct ventilation not exceed 75% of floor-to-ceiling height; amending subsection (b) of Sec. 42.0407, regarding employees' outer garments and deleting the phrase "whose use is restricted to the bathroom" repealing Sec. 42.0409, requiring bathroom operators to maintain a register of all employees; repealing Sec. 42.0413, requiring bathroom operators to maintain a register of the number of patrons admitted and their hour of arrival and departure; amending subsection (a) of Sec. 42.0415 to correct a typographical error- "for," to be changed to "nor"; and, amending subsection (a) of Sec. 42.0416, regarding detailed monitoring requirements to read: "No person shall operate a bathroom unless employee-monitors are provided for the purpose of observation of activity on the bathroom premises. At least one monitor shall be on duty at all times that the bathroom is open."

The changes are de minimis and should have no impact on the intended purpose of the ordinance; that is, to help stop the spread of AIDS through illicit sexual activity in bathrooms.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on December 10, 1990 Passed and adopted by the Council of the City of San Diego on January 9, 1991

AUTHENTICATED BY:
MAUREEN O'CONNOR
Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California
By ELLEN BOVARD, Deputy

Pub. January 23

209021

I, Thomas D. Kelleher, 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

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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:

JAN. 23

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

Dated at San Diego, California this 23RD day of JAN, 1991

(Signature)

PAGE 1 OF 1

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