

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 3,
DIVISION 15 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 33.1502 AND 33.1504, ALL
RELATING TO ENTERTAINMENT ESTABLISHMENTS.

§ 33.1502 Definitions

For purposes of this Division:

“*ABC License*” means the license issued by the California Department of Alcoholic Beverage Control.

“*Admission Charge*” means any charge for the right or privilege to enter any place of *entertainment* including a minimum service charge, an event charge, a cover charge, a charge for the use of seats and tables, or any other similar charge. It also includes the purchase or presentation of a ticket or token directly or indirectly required as a condition for entrance. It does not include tips, gratuities, voluntary donations, or suggested donations for employees or for any person providing *entertainment*.

“*Bona fide restaurant*” means an eating establishment where a minimum percentage of its food sales are 50% of gross receipts.

“*Conditional use permit*” means any permit issued by the City of San Diego

pursuant to Chapter X, Article 1, Division 5, or pursuant to a planned district ordinance, upon which the *Chief of Police* has had a meaningful role in determining conditions on the *permit* related to the operation of a *public dance, entertainment, or amusement premises*.

“*Dance and dancing*” means movement of the human body, accompanied by music or rhythm.

“*Entertainment*” or “*Entertainment Establishment*” means any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited or allowed to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

- (a) Presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, musical song or dance acts, plays, concerts, any type of contest; sporting events, exhibitions, carnival, rodeo or circus acts, demonstrations of talent; shows, reviews, any other such activity which may be attended by members of the public.
- (b) *Dancing* to live or recorded music.
- (c) The presentation of recorded music played on equipment which is operated by an agent or contractor of the establishment, commonly known as “DJ” or “disc jockey.”

“*Property Line*” means the defined perimeter of a parcel of land, and separates one parcel of land from any other parcel of land, or from a public right of way.

“*Residential property*” means a parcel of land that is zoned for residential use.

“*Theater*” means any commercial establishment where regular theatrical

performances, such as performances of literary compositions that tell a story, are given, usually on a stage, and usually with ascending row seating or some arrangement of permanent seating.

§ 33.1503 [No change in text]

§ 33.1504 **Exemption from the Permit Requirement**

The following types of entertainment and events are exempt from the police permit required by this Division. This exemption does not relieve any of the establishments from complying with all other applicable laws, including the laws related to noise levels, particularly those contained in Chapter V of this Code.

[No change in text from a through p]

(q) Any establishment that is a *bona fide restaurant* provided all of the following conditions exist:

- (1) No admission charge
- (2) No required purchase or donation (such as minimum drink order)
- (3) Establishment is closed and all patrons have vacated the premises between 11:00 pm and 8:00 am.
- (4) No customer dancing
- (5) No residential property within 100 feet of the establishment. The 100 feet distance is measured in a straight line, in all directions from the establishment to the *property line* of the residential *property*.

JCH:jdf
7/7/2011
Or.Dept:Police