

ORDINANCE NUMBER O- 21385 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 08 2021

AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.0101, BY AMENDING AND RETITLING SECTION 33.0103, AND BY AMENDING SECTION 33.0106; AMENDING CHAPTER 3, ARTICLE 3, DIVISION 3, BY AMENDING SECTIONS 33.0301, 33.0302, 33.0303, AND 33.0307, BY AMENDING AND RETITLING SECTION 33.0308, BY AMENDING SECTIONS 33.0309 AND 33.0312, AND BY AMENDING AND RETITLING SECTION 33.0313; AND BY AMENDING CHAPTER 3, ARTICLE 3, DIVISION 5, BY AMENDING SECTIONS 33.0501, 33.0502, 33.0503, 33.0507, AND 33.0508, ALL RELATING TO INSPECTIONS, PERMIT APPLICATIONS, RENEWAL, AND APPEAL PROCEDURES FOR POLICE-REGULATED OCCUPATIONS AND BUSINESSES.

WHEREAS, the Chief of Police issues police permits and regulates a variety of occupations and businesses; and

WHEREAS, these are collectively referred to as police-regulated businesses; and

WHEREAS, the issuance of police permits is contingent on the right of the Chief of Police to inspect the police-regulated businesses to ensure there is no criminal activity or other violations that would have a negative impact on the quality of life of the surrounding community; and

WHEREAS, this Ordinance limits the time, place, scope, and manner of inspections and authorizes the Chief of Police to conduct regular inspections of the public areas of police-regulated businesses during the business' normal business hours to ensure compliance with the provisions of Article 3 of the San Diego Municipal Code (Municipal Code); and

WHEREAS, this Ordinance requires permittees to provide written notice to the Chief of Police when changing employers or when police-regulated businesses hire or change employees responsible for the day-to-day management of a police-regulated business; and

WHEREAS, the Chief of Police annually renews police permits upon the payment of a regulatory fee; and

WHEREAS, the Municipal Code authorizes the Chief of Police to deny police permits or take regulatory action against permittees for violations of local, state, and federal law or for failure to comply with other conditions imposed on the police permit; and

WHEREAS, this Ordinance requires a permittee to pay the annual regulatory fee pending the appeal of any regulatory action taken against the police permit; and

WHEREAS, the proposed amendments to the Municipal Code clarify that if a permittee seeks judicial review of an administrative hearing officer's decision, the effect of the decision shall be stayed pursuant to California Code of Civil Procedure section 1094.5(g); NOW, THEREFORE,

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

Section 1. That Chapter 3, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 33.0101, by amending and retitling section 33.0103, and by amending section 33.0106, to read as follows:

§33.0101 Certain Businesses and Occupations Police-Regulated; Police Permit Required

- (a) The occupations and businesses listed in this Article are subject to the City's police power and are classified as "police-regulated."
- (b) [No change in text.]

- (c) It is a misdemeanor for any *person* to operate a business or engage in an occupation regulated by this Article without a *police permit*. The *police permit* is in addition to any other *license* or *permit* required under any other provisions of the San Diego Municipal Code, including the business tax certificate in Chapter 3, Article 1, or any *license* or *permit* required by law.
- (d) [No change in text.]

§33.0103 Inspections and Authority of the Chief of Police

- (a) The *Chief of Police* shall conduct regular inspections of all police-regulated businesses only as reasonably necessary to ensure compliance with the provisions specific to the occupations or businesses listed in this Article. Unless authorized by state or federal law, inspections shall be limited to areas where business is conducted and the public areas of any police-regulated business. Inspections shall occur during the business' normal operating hours.
- (b) It is unlawful for any *responsible person* or *employee* to prevent the *Chief of Police* from conducting an inspection.
- (c) [No change in text.]

§33.0106 Name of Business

It is unlawful for any *permittee* to operate any police-regulated business or engage in any police-regulated occupation under any name or designation other than the name or designation on the *police permit*. This section does not preclude the use of stage names by *persons* issued *police permits* under Divisions 28 and 36.

Section 2. That Chapter 3, Article 3, Division 3 of the San Diego Municipal Code is amended by amending sections 33.0301, 33.0302, 33.0303, and 33.0307, and by amending and retitling section 33.0308, by amending sections 33.0309 and 33.0312, and by amending and retitling section 33.0313, to read as follows:

§33.0301 Chief of Police Authority to Investigate

The *Chief of Police* will investigate an applicant's fitness to conduct the occupation, business, or game of skill specified in the application. The investigation will also determine the suitability of the location of the proposed *establishment*. In addition, the *Chief of Police* will determine if the proposed occupation, business, or game of skill is a lottery, form of gambling, or illegal activity.

§33.0302 Duty to Complete Applications; Incomplete Applications; Single Occasion Event Applications

- (a) [No change in text.]
- (b) The *Chief of Police* will not accept incomplete applications. The application will be returned to the applicant and marked "Incomplete - Application Rejected" no later than ten business days after receipt by the *Chief of Police*. The rejection of an application under this section is not appealable.
- (c) [No change in text.]

§33.0303 Time Allowed for Investigation; Temporary Status for Performers

- (a) [No change in text.]
- (b) Except for applications submitted to obtain *permits* under Chapter 3, Article 3, Divisions 33 and 36, or for any other business or

occupation protected by the First Amendment, upon written notification to the applicant the Chief of Police is allowed up to fourteen additional calendar days to investigate the applicant.

- (c) *Persons* engaged in an activity protected by the First Amendment including those governed by Division 36, may perform in a temporary status during the 30- day investigation period or until their application for their *permit* is denied, whichever comes first. If the application for the *permit* is granted, their temporary status expires and the applicant may perform as a *permittee*. During the temporary status period, the *person* must abide by all laws including this Code, applicable to a *permittee*.

§33.0307 Application and Regulatory Fees

Unless otherwise specified, all *police permit* applications shall be accompanied by a non-refundable application fee to cover the cost of investigating and processing the application. Any *person* who desires to obtain a business *permit* and an occupational *permit* (for example, a *massage establishment permit* and a *massage therapist permit*) shall pay only one application fee if the applications are submitted concurrently.

Permittees shall pay regulatory fees to cover the cost of inspecting, regulating, and enforcing laws relating to police-regulated businesses. Unless otherwise specified, regulatory fees shall be paid according to the schedule set in the Rate Book of City Fees and Charges.

§33.0308 Term of Permit and Renewal; Fees

- (a) [No change in text.]
- (b) Except as provided in section 33.0308(e), (f), (g), and (i), each *permit* may be renewed annually upon payment of the regulatory fee specified in the Rate Book of City Fees and Charges and submittal of a renewal form.
- (c) through (h) [No change in text.]
- (i) A *permit* will not be renewed if it has been revoked. However, if an action to revoke a *permit* is in progress, a *permit* will not be renewed unless and until the *permittee* succeeds in having the revocation action overturned, or the action is stayed as provided in section 33.0506 or by court order allowing the *permittee* to operate, in which case, the *permit* will expire as provided in subsection (a) unless the *permittee*:
 - (1) pays the annual regulatory fee on the *permit*'s renewal date; and
 - (2) if applicable, submits a copy of the court order authorizing the stay along with the renewal form.

Payment of the annual regulatory fee does not grant the *permittee* a new *permit*, nor does it invalidate the revocation of the *permit*. If the revocation of the *permit* is upheld, the *permittee* shall be reimbursed the pro-rated annual regulatory fee from the date the *permittee* ceased operating under the *permit* until the remainder of the *permit*'s duration.

- (j) [No change in text.]

§33.0309 Effect of Granting Permit

The granting of a *police permit* does not relieve the *permittee* from obtaining all appropriate permits or approvals required by local, state, or federal laws.

Permittees must comply with all applicable local, state, and federal laws, including those related to building, zoning, fire, and other public safety regulations.

The granting of a *police permit* does not vest any development rights in the property or business.

§33.0312 Notice of Change of Employers

Any *person* engaged in a police-regulated occupation must notify the Office of the *Chief of Police*, in writing, of any change of employment within fifteen calendar days of changing to the new employer.

§33.0313 Responsible Persons

Permittees shall provide the *Chief of Police* with the names of all *responsible persons* involved in the day-to-day management of the police-regulated business.

The *permittee* shall notify the Office of the *Chief of Police*, in writing, within thirty calendar days of a change in *responsible persons*.

Section 3. That Chapter 3, Article 3, Division 5 of the San Diego Municipal Code is amended by amending sections 33.0501, 33.0502, 33.0503, 33.0507, and 33.0508 to read as follows:

Article 3: Police Regulated Occupations and Businesses

Division 5: Appeal Rights and Procedures

§33.0501 Right of Appeal to Hearing Officer; Time Limits

- (a) Except as provided in sections 33.0506 and 33.0507, any *person* who has regulatory action taken by the *Chief of Police* against the *permit* as described in sections 33.0403(b)(4) through (8), may request a hearing conducted by a hearing officer provided by the *City Manager*.
- (b) through (h) [No change in text.]

§33.0502 Conduct of the Appeal Hearing

- (a) [No change in text.]
- (b) The applicant, *permittee*, or the *Chief of Police* may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. However, legal representation in administrative hearings is not required.
- (c) If the applicant or *permitee* fails to appear at the hearing, the appeal is abandoned and the action of the *Chief of Police* is final.

§33.0503 Appeal Hearing Decision

- (a) The hearing officer may uphold the denial, suspension, revocation or other decision of the *Chief of Police*, may allow that which has been denied, reinstate that which has been-suspended or revoked, reverse or modify any other decision that is the subject of the appeal.
- (b) A copy of the hearing officer's decision specifying findings of fact and the reasons for the decision shall be furnished to the applicant, *permittee*, or

the applicant or *permittee's* counsel, and the *Chief of Police* within thirty calendar days of the hearing. If the hearing officer determines the complexity of the case requires additional time in which to render a decision, the time in which to render the decision is automatically extended another thirty calendar days.

This subsection does not apply to *permittees* governed by section 33.0507.

- (c) The hearing officer's decision shall be final ten calendar days from the action of the hearing officer, except
 - (1) through (2) [No change in text.]
- (d) [No change in text.]
- (e) (1) The hearing officer's decision shall be the final administrative remedy, unless an appeal to the Committee on Public Safety and Livable Neighborhoods (or its successor) committee is made in writing with the City Clerk within ten calendar days of receipt of the hearing officer's written decision.
 - (2) [No change in text].
- (f) In decisions involving businesses and occupations protected by the First Amendment, including businesses and occupations governed by Chapter 3, Article 3, Divisions 33 and 36 of this Code, the hearing officer's decision is stayed as provided in section 33.0506.
- (g) If the hearing officer's decision is to uphold the denial of a *police permit*, the denial remains in effect until otherwise modified or overturned by a court of competent jurisdiction. This subsection also includes denials of

police permits for businesses and occupations protected by the First Amendment, including businesses and occupations governed by Chapter 3, Article 3, Divisions 33 and 36 of this Code.

§33.0507 Review for Regulatory Action Taken Against Permit Holders Engaged in First Amendment Activity

Any *person* who holds a *police permit* for a business or occupation that is protected by the First Amendment, and who has had regulatory action taken against their *permit*, shall have the same appeal rights as those contained in sections 33.0501 through 33.0503, except that:

- (a) The hearing officer shall issue and mail his or her decision to the parties or their counsel within fifteen calendar days of the completion of the appeal hearing to suspend or revoke the *permit*. The time to render a decision may not be extended unless all parties agree to such an extension; and
- (b) The hearing officer's decision is final on the date it is mailed to the parties or their counsel; and shall be the final administrative remedy; and
- (c) There is no appeal to the City Council or any subcommittee thereof;
- (d) The hearing officer's decision shall include notice that either party may seek prompt judicial review of the decision pursuant to California Code of Civil Procedure section 1094.6; and
- (e) If the *permittee* seeks judicial review, the effect of the hearing officer's decision is stayed pending the judgment of the superior court. The stay shall continue for a period of 20 days from the filing of the notice of appeal from judgement or until the expiration of the time for filing the notice, whichever occurs first. If no judicial review is sought, the hearing

officer's decision is final after the last date for seeking such review has passed.

§33.0508 Other Administrative Appeals Not Applicable

The appeal hearings contained in this Division are the only administrative appeal hearings that apply to decisions by the *Chief of Police* regulating police-regulated businesses. The administrative appeal process in Chapter 1, Article 2, Divisions 4 and 5 does not apply.

Section 4. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Lara Easton
Lara Easton
Deputy City Attorney

LE:hm:sc
Or.Dept:Police
09/07/2021
Doc. No.: 2771556

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 02 2021.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11/8/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

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 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.0101, BY AMENDING AND RETITLING SECTION 33.0103, AND BY AMENDING SECTION 33.0106; AMENDING CHAPTER 3, ARTICLE 3, DIVISION 3, BY AMENDING SECTIONS 33.0301, 33.0302, 33.0303, AND 33.0307, BY AMENDING AND RETITLING SECTION 33.0308, BY AMENDING SECTIONS 33.0309 AND 33.0312, AND BY AMENDING AND RETITLING SECTION 33.0313; AND BY AMENDING CHAPTER 3, ARTICLE 3, DIVISION 5, BY AMENDING SECTIONS 33.0501, 33.0502, 33.0503, 33.0507, AND 33.0508, ALL RELATING TO INSPECTIONS, PERMIT APPLICATIONS, RENEWAL, AND APPEAL PROCEDURES FOR POLICE-REGULATED OCCUPATIONS AND BUSINESSES.

Article 3: Police Regulated Occupations and Businesses

Division 1: General Provisions

§33.0101 Certain Businesses and Occupations Police-Regulated; Police Permit Required

- (a) The occupations and businesses ~~in The City of San Diego~~ listed in this Article are subject to the City's police power and are classified as "police-regulated."
- (b) [No change in text.]
- (c) It is a misdemeanor for any *person* to operate a business or engage in an occupation regulated by this Article without a *police permit*. The *police permit* is in addition to any other *license* or *permit* required under any

other provisions of the San Diego Municipal Code, including the business tax certificate in Chapter ~~III~~ 3, Article 1, or any *license or permit* required by law.

(d) [No change in text.]

§33.0103

Inspections and Authority of ~~Peace Officers or Police Employees~~ the Chief of Police

(a) *The Chief of Police shall ~~make, or cause to be made,~~ conduct regular inspections of all police-regulated businesses only as reasonably necessary to ensure compliance with the provisions specific to the occupations or businesses listed in this Article. ~~Any peace officer~~ Unless authorized by state or federal law, inspections shall have free access be limited to areas where business is conducted and the public areas of any police-regulated business. Inspections shall occur during the business' normal operating hours. It is unlawful for any permittee or employee to prevent or hinder any peace officer from conducting an inspection.*

(b) ~~Any police code compliance officer assigned by the Chief of Police to conduct inspections shall have free access to any police-regulated business during normal operating hours. It is unlawful for any permittee or employee to prevent or hinder any police code compliance officer from conducting an inspection. It is unlawful for any responsible person or employee to prevent the Chief of Police from conducting an inspection.~~

(c) [No change in text.]

§33.0106 Name of Business

It is unlawful for any *permittee* to operate any police-regulated business or engage in any police-regulated occupation under any name or designation other than the name or designation on the *police permit*. This ~~§~~section does not preclude the use of stage names by ~~dancers or escorts~~ persons licensed issued police permits under Divisions 28 and 36.

Division 3: Applications for Permits

§33.0301 Chief of Police Authority to Investigate

~~The Chief of Police, or other designated official, shall make such investigation as may be deemed to be sufficient to determine the applicant's fitness to conduct the occupation or business or game of skill specified in the application, or to determine if the place at which it is proposed that the occupation or business or game of skill is to be conducted in a suitable or proper place therefor, or to determine if the occupation or business or game of skill is a lottery or a form of gambling or may be used to promote gambling or the conducting of a lottery or any illegal activity. The Chief of Police will investigate an applicant's fitness to conduct the occupation, business, or game of skill specified in the application. The investigation will also determine the suitability of the location of the proposed establishment. In addition, the Chief of Police will determine if the proposed occupation, business, or game of skill is a lottery, form of gambling, or illegal activity.~~

§33.0302 Duty to Complete Applications; Incomplete Applications; Single Occasion Event Applications

- (a) [No change in text.]
- (b) ~~If an applicant files an incomplete application, that application will not be accepted by~~ the Chief of Police. will not accept incomplete applications.
The application will be returned to the applicant and marked “Incomplete - Application Rejected” no later than ~~five~~ ten business days after receipt by the *Chief of Police*. The rejection of an application under this ~~Section~~ is not appealable.
- (c) [No change in text.]

§33.0303 Time Allowed for Investigation; Temporary Status for Performers

- (a) [No change in text.]
- (b) Except for applications submitted to obtain *permits* under Chapter ~~III~~ 3, Article 3, Divisions 33 and 36 ~~of this Code~~, or for any other business or occupation protected by the First Amendment, upon written notification to the applicant the *Chief of Police* is allowed up to fourteen additional calendar days to investigate the applicant.
- (c) ~~Performers~~ Persons engaged in an activity protected by the First Amendment including those governed by Division 36 (~~Nude Entertainment~~), may perform in a temporary status during the 30-day investigation period or until their application for their *permit* is denied, whichever comes first. If the application for the *permit* is granted, their temporary status expires and the applicant may perform as a *permittee*.

During the temporary status period, the ~~performer~~ person must abide by all laws including this Code, applicable to a *permittee*.

§33.0307 Application and Regulatory Fees

~~It is the policy of The City of San Diego that the cost of investigating and processing an application for a *police permit* is to be borne by the applicant. To this end, u~~Unless otherwise specified, all *police permit* applications shall be accompanied by a non-refundable application fee, ~~which will~~ to cover the cost of investigating and processing the application. Any *person* who desires to obtain a business *permit* and an occupational *permit* (for example, a *massage establishment permit* and a *massage therapist permit*) shall pay only one application fee if the applications are submitted concurrently.

~~It is the policy of The City of San Diego that~~ Permittees shall pay regulatory fees to cover the cost of inspecting, regulating, and enforcing laws relating to police-regulated businesses ~~be borne by the permittees in the form of regulatory fees. To this end, u~~Unless otherwise specified, regulatory fees shall be paid according to the schedule set in the ~~City Clerk's Composite Rate Book~~ of City Fees and Charges.

§33.0308 Term of Permit and Renewal; Fees

- (a) [No change in text.]
- (b) Except as provided in section 33.0308(e), (f), (g), and (i), each *permit* may be renewed annually upon payment of the regulatory fee specified in the ~~City Clerk's Composite Rate Book~~ of City Fees and Charges and submittal of a renewal form.

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

(i) ~~Under no circumstances may a Δ permit will not be renewed if an action to revoke the permit is in progress or has been taken it has been revoked. If a permittee succeeds in having the revocation action overturned, the permittee must pay the regulatory fees for the time, if any, the permittee was allowed to operate during the appeal process. However, if an action to revoke a permit is in progress, a permit will not be renewed unless and until the permittee succeeds in having the revocation action overturned, or the action is stayed as provided in section 33.0506 or by court order allowing the permittee to operate, in which case, the permit will expire as provided in subsection (a) unless the permittee:~~

(1) pays the annual regulatory fee on the permit's renewal date;

and

(2) if applicable, submits a copy of the court order authorizing the stay along with the renewal form.

Payment of the annual regulatory fee does not grant the permittee a new permit, nor does it invalidate the revocation of the permit. If the revocation of the permit is upheld, the permittee shall be reimbursed the pro-rated annual regulatory fee from the date the permittee ceased operating under the permit until the remainder of the permit's duration.

(j) [No change in text.]

§33.0309 Effect of Granting Permit

The granting of a ~~police permit~~ police permit does not relieve the ~~applicant~~ permittee from obtaining all appropriate permits or approvals required by ~~The City of San Diego local,~~ or state, or federal laws.

~~The granting of a permit does not relieve a p~~Permittees must from the ~~permittee's~~ obligation to comply with all applicable local, state, and federal laws, including those related to building, zoning, and fire, and other public safety regulations.

The granting of a ~~police permit~~ police permit does not vest any development rights in the property or business.

§33.0312 Notice of Change of Employers

Any ~~person~~ person engaged in a police-regulated occupation must notify the ~~Chief of Police, in writing,~~ of any change of employment within fifteen calendar days of changing to the new employer.

§33.0313 Responsible Persons; Managers

~~If the permittee is not directly involved in the day-to-day management of the police-regulated business, or if the permittee has other managers in addition to him or herself, the permittee shall provide the names of all such managers and responsible persons to the Chief of Police. Permittees shall provide the Chief of Police with the names of all responsible persons involved in the day-to-day management of the police-regulated business. In the event of a change in such persons, ¶The permittee shall notify the Chief of Police, in writing, within thirty calendar days of such a change in responsible persons.~~

Article 3: Police Regulated Occupations and Businesses

Division 5: Appeal Rights and Procedures

§33.0501 Right of Appeal to Hearing Officer; Time Limits

- (a) Except as provided in sections 33.0506 and 33.0507, any *person who has been denied a permit, has had conditions placed on the permit as a result of regulatory action against the permittee, has had conditions placed on the permit which the permittee did not agree to, or any person who has regulatory action taken by the Chief of Police against the permit as described in sections 33.0403(b)(4) through (8), may request a hearing conducted by a hearing officer provided by the City Manager.*
- (b) through (h) [No change in text.]

§33.0502 Conduct of the Appeal Hearing

- (a) [No change in text.]
- (b) The applicant, ~~or permittee,~~ or the Chief of Police may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. However, legal representation in administrative hearings is not required.
- (c) If the applicant or *permittee*, ~~or counsel representing the applicant or permittee,~~ fails to appear at the hearing, the appeal is abandoned and the action of the *Chief of Police* is final.

§33.0503 Appeal Hearing Decision

- (a) The hearing officer may uphold the denial, suspension, revocation or other decision of the *Chief of Police*, may allow that which has been denied,

reinstate that which has been suspended or revoked, reverse or modify any other decision ~~of the Chief of Police~~ that is the subject of the appeal.

- (b) A copy of the ~~decision of the~~ hearing officer's decision specifying findings of fact and the reasons for the decision shall be furnished to the applicant, *permittee*, or the ~~designated representative~~ the applicant or permittee's counsel, and the *Chief of Police* within thirty calendar days of the hearing. If the hearing officer determines the complexity of the case requires additional time in which to render a decision, the time in which to render the decision is automatically extended another thirty calendar days. This subsection does not apply to *permittees* governed by section 33.0507.
- (c) The ~~decision of the~~ hearing officer's decision shall be final ten calendar days from the action of the hearing officer, except
- (1) through (2) [No change in text.]
- (d) [No change in text.]
- (e) (1) The ~~decision of the~~ hearing officer's decision shall be the final administrative remedy, unless an appeal to the Committee on Public Safety and Livable Neighborhoods (or its successor committee) is made in writing with the City Clerk within ten calendar days of receipt of the hearing officer's written decision.
- (2) [No change in text.]
- (f) In decisions involving businesses and occupations protected by the First Amendment, including businesses and occupations governed by Chapter ~~III~~ 3, Article 3, Divisions 33 and 36 of this Code, ~~the effect of a decision~~

~~by the hearing officer's decision is stayed pending judicial review of the hearing officer's decision, or until the time to file for such review has expired. If judicial review of the hearing officer's decision is sought, the effect of the decision by the hearing officer is stayed until the judicial review is complete. In decisions involving the denial of a *police permit*, if the decision of the hearing officer is to uphold the denial, the denial remains in effect until otherwise modified or overturned by a court of competent jurisdiction as provided in section 33.0506.~~

(g) If the hearing officer's decision is to uphold the denial of a *police permit*, the denial remains in effect until otherwise modified or overturned by a court of competent jurisdiction. This subsection also includes denials of *police permits* for businesses and occupations protected by the First Amendment, including businesses and occupations governed by Chapter 3, Article 3, Divisions 33 and 36 of this Code.

§33.0505 Right of Appeal to the Committee on Public Safety and Livable Neighborhoods; Procedure; Decisions

[No change in text.]

§33.0506 Review for Denials of Permits to Engage in First Amendment Activity

[No change in text.]

§33.0507 Review for Regulatory Action Taken Against Permit Holders Engaged in First Amendment Activity

Any ~~person~~ person who holds a *police permit* for a business or occupation that is protected by the First Amendment, and who has had regulatory action taken against them ~~their permit~~, shall have the same appeal rights as those contained in sections 33.0501 through 33.0503, except that:

- (a) The hearing officer shall issue and mail his or her decision to the parties or their counsel within fifteen calendar days of the completion of the appeal hearing to suspend or revoke the *permit*. The time to render a decision may not be extended unless all parties agree to such an extension; and
- (b) ~~The decision of the hearing officer's decision shall be~~ is final five calendar days from the mailing of the decision on the date it is mailed to the parties or their counsel; and shall be the final administrative remedy; and
- (c) There is no appeal to the City Council or any subcommittee thereof; and
- (d) The hearing officer's decision shall include notice that ~~Either~~ party may seek prompt judicial review of the ~~hearing officer's~~ decision pursuant to the California Code of Civil Procedure section 1094.6; and
- (e) If the *permittee* seeks judicial review, the effect of the ~~decision of the~~ hearing officer's decision shall be ~~is~~ stayed ~~while the permittee seeks~~ prompt judicial review pending the judgment of the superior court. The stay shall continue for a period of 20 days from the filing of the notice of appeal from judgement or until the expiration of the time for filing the notice, whichever occurs first. If no judicial review is sought, the ~~effect of the decision of the~~ hearing officer's decision is final ~~as seen as~~ after the ~~final~~ last date for seeking such review has passed.

§33.0508 Other Administrative Appeals Not Applicable

The appeal hearings contained in this Division are the only administrative appeal hearings ~~which~~ that apply to decisions by the Chief of Police regulating police-regulated businesses. The administrative appeal process ~~provided for in section 22.0101 of this Code in Chapter 1, Article 2, Divisions 4 and 5~~ does not apply to ~~police-regulated businesses.~~

LEE:hm:sc
09/07/2021
Or.Dept.Police
Document No. 2768042

Passed by the Council of The City of San Diego on NOV 02 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 08 2021.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], 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 18 2021

NOV 08 2021

, and on _____.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21385