

Article 3: Police Regulated Occupations and Businesses

Division 33: Peep Show Establishments

*(“Peep Show Establishments”
added 7-16-1968 by O-9845 N.S.)*

§33.3301 Purpose and Intent

It is the purpose and intent of this Division to regulate the operation of *peep show establishments* for the protection of the public from the perils of fire and hazards to health. The intent is also to establish certain minimum standards to operate *peep show establishments* to protect the public order and the general welfare of the residents of the City of San Diego. This includes the prevention of prostitution, obscenity, lewd acts, money laundering and the infiltration of organized crime with its associated problems. It also includes the prevention of the spread of disease, the prevention of the deterioration of neighborhoods, the reduction of crime in and around *adult entertainment establishments*, and the preservation of the quality of urban life in the City of San Diego. It is also the intent of this Division to deter illicit interaction between patrons of *peep show establishments*. It is the intent of this Division to accomplish these goals by restricting the size of *peep show booths* to prohibit multiple occupants, and by prohibiting apertures between *peep show booths*. It is also the intent of this Division to place responsibility for compliance with these regulations on the *permittee* and patrons. It is not the intent of this Division to deny adults access to adult oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market.

(Amended 11-20-2000 by O-18890 N.S.)

§33.3302 Definitions

For purposes of this Division:

“*Adult entertainment establishment*” includes any business that is characterized by an emphasis on depicting, describing, or showing *specified sexual activities*, or *specified anatomical areas*. It includes any *establishment* regulated in Section 141.0601 of this Code.

“*Peep show booth*” means any room, or partitioned area of any room, in which a *peep show device* is located. “*Peep show booth*” does not include adult motion picture theaters or adult mini motion picture theaters as defined in Section 141.0601 of this Code.

(11-2006)

“*Peep show establishment*” means any place to which the public is permitted or invited where one or more *peep show devices* are maintained.

“*Peep show device*” means any device which displays still or moving images, which are distinguished or characterized by an emphasis on “*specified sexual activities*” or “*specified anatomical areas*.” “*Peep show device*” does not include televisions, video tape machines, or other image producing devices located within hotels, motels or similar commercial lodging establishments which are licensed as such.

“*Specified anatomical areas*” means and includes less than completely and opaquely covered human genitals, pubic region, buttocks, anus, female breasts below a point immediately above the top of the areolae, or human male genitals in a discernible turgid state, even if completely and opaquely covered.

“*Specified sexual activities*” means and includes the fondling or other touching of human genitals, pubic region, buttocks, anus, or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; masturbation, actual or simulated; or excretory functions as part of or in connection with any of the activities set forth above.

(Amended 11-20-2000 by O-18890 N.S.)

§33.3303 Peep Show Establishment Permit Required

It is unlawful for any person to operate a *peep show establishment* without a *police permit*.

(“*Permit*” retitled to “*Peep Show Establishment Permit Required*” and amended 11-20-2000 by O-18890 N.S.)

§33.3304 Peep Show Establishment Application Contents

Each applicant for a *permit* to operate a *peep show establishment* shall furnish the following information to the *Chief of Police*:

- (a) The full true name and any other names ever used by the applicant.
- (b) The current residential address and telephone number of the applicant.
- (c) The proposed address of the business and true name of the business, including any fictitious name the business operates or advertises under.

(11-2006)

- (d) Each residential and business address of the applicant for the five years immediately preceding the date of the application, and the inclusive dates of each such address.
- (e) Written proof that the applicant is at least eighteen years of age.
- (f) Applicant's height, weight, color of eyes and hair.
- (g) Photographs as specified by the *Chief of Police*.
- (h) Applicant's business, occupation and employment history for the five years immediately preceding the date of application, including addresses and dates of employment.
- (i) Whether the applicant has ever had any *adult entertainment establishment license* or *permit*, or any *adult entertainment establishment employee license* or *permit*, or any similar license or permit issued by any agency or board, or any city, county, state or federal agency suspended or revoked within five years immediately preceding the date of application, and the reason for the suspension or revocation.
- (j) All criminal *convictions*, including those dismissed pursuant to Penal Code section 1203.4, except traffic, and the dates and places of the *convictions*.
- (k) The full true name and any other names used by any *persons*, including owners, who exercise control over the operation, management, direction or policy of the business, or who are responsible for the daily operation of the business.
- (l) Fingerprints.
- (m) The name and address of the owner, any lessor of the real property upon which or in which the business is to be conducted, and a copy of the lease or rental agreement.
- (n) If the applicant is a corporation, the name of the corporation exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation and names and residence addresses of each of its current officers and directors.
- (o) If the applicant is a partnership, the name and residence addresses of each of the partners, including limited partners.

(11-2006)

- (p) If the applicant is a limited partnership, a copy of the limited partnership's certificate of limited partnership as filed with the County Clerk.
- (q) If one or more of the limited partners is a corporation, the applicant shall provide the information about that partner required by Section 33.3304(n).
(*"Permit Fee" repealed; "Applications for Permit — Investigation Fee" retitled to "Peep Show Establishment Application Contents," renumbered from Sec. 33.0305 and amended 11-20-2000 by O-18890 N.S.*)

§33.3305 Corporate Officers and Partners Deemed Applicants

Each corporate officer or partner of a *peep show establishment* is deemed an applicant for a *peep show establishment permit* and each must provide the information required in Section 33.3304.

(*"Applications for Permit — Investigation Fee" retitled to "Peep Show Establishment Application Contents" and renumbered to Sec. 33.0304; "Corporate Officers and Partners Deemed Applicants" added 11-20-2000 by O-18890 N.S.*)

§33.3306 Designation of Responsible Managing Officer; Signature on Applications

An applicant who is a corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. The responsible managing officer may complete and sign all applications on behalf of the corporate officers and partners.

(*"Designation of Responsible Managing Officer; Signature on Applications" added 11-20-2000 by O-18890 N.S.*)

§33.3307 Grounds for Denial of Peep Show Booth Establishment Permit

In addition to the grounds for denial stated in Section 33.0305(a)-(d), 33.0305(c)(3) and 33.0305(f), an application for a *peep show establishment permit* shall be denied for any of the following reasons:

- (a) The applicant has within five years immediately preceding the date of the filing of the application, *been convicted* of any of the following offenses:
 - (1) any offense described in California Penal Code sections 266h, 266i, 315, 316, 318, 653.22, or 647(a) or (b); or
 - (2) any offense described in California Penal Code Part One, Title 9, Chapters 7.5 and 7.6.

(11-2006)

- (b) The applicant has within five years immediately preceding the date of the filing of the application *been convicted* of a charge of violating any lesser included or lesser related offense, including California Penal Code section 415, in satisfaction of, or as a substitute for, an original charge of any of the offenses listed in Section 33.3307(a).
- (c) The applicant has *been convicted* of any offense which requires registration as a sex offender under California Penal Code section 290.
(“*Grounds for Denial of Peep Show Booth Establishment Permit*” added 11-20-2000 by O-18890 N.S.)

§33.3308 Minimum Doorways

It is unlawful for any *person* to operate a *peep show establishment* unless there are at least two doorways that each are a minimum of 36 inches wide. The doorway shall provide ingress or egress from any room in which a *peep show booth* is located unless the Fire Chief determines that one doorway is sufficient. Doorways shall stay unlocked during business hours.

(“*Minimum Doorways and Entrances*” renumbered from Sec. 33.3315, retitled to “*Minimum Doorways*” and amended 11-20-2000 by O-18890 N.S.)

§33.3309 Minimum Aisle Width

- (a) It is unlawful for any *person* to operate a *peep show establishment* in which the width of any primary continuous aisle located between or adjacent to *peep show booths* is less than 44 inches. An example of a primary continuous aisle is shown in Figure 1.

FIGURE 1

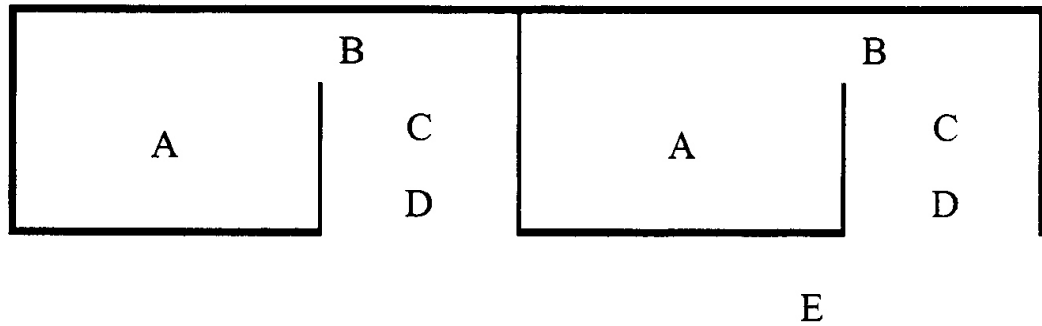


Figure 1 (SEC. 33.3309) Illustration of the following peep show booth terms:

- (A) Viewing area
 - (B) Entrance to viewing area
 - (C) Secondary aisle, hallway or walkway
 - (D) Entrance to peep show booth
 - (E) Primary continuous aisle
- (b) It is unlawful for any *person* to operate a *peep show establishment* where there is any secondary aisle, hallway or walkway located between or adjacent to a primary continuous aisle and a *peep show booth*. An example of a secondary aisle is shown in Figure 1.
 (“Minimum Aisle Width” renumbered from Sec. 33.3314 and amended 11-20-2000 by O-18890 N.S.)

§33.3310 Peep Show Booth Minimum Size and Occupancy Load

- (a) Except as provided in Section 33.3326, it is unlawful for any *person* to operate a *peep show establishment* unless the floor area of the interior of the viewing area of each *peep show booth* is a maximum of fifteen square feet.
- (b) A *peep show booth* shall not contain seating accommodations designed for use by more than one person at any one time. This subsection is regulatory only.
- (c) The *responsible person* shall not allow more than one person in a *peep show booth* at any one time. This subsection is regulatory only.

(11-2006)

- (d) It is unlawful for any person to enter or remain in any *peep show booth* that is occupied by another person.
- (e) Each *peep show booth* shall have an interlock mechanism on its door which prevents activation of the *peep show device* unless the *peep show booth* door is closed and locked.
- (f) The *responsible person* on the premises must be able to open the door to the *peep show booth* at all times and the *responsible person* must open the door upon request of a *peace officer* when that officer is inspecting the premises, investigating criminal activity, or investigating violations of this Code.
 (“*Peep Booth Minimum Size and Occupancy Load*” renumbered from Sec. 33.3319, retitled to “*Peep Show Booth Minimum Size and Occupancy Load*” and amended 11-20-2000 by O-18890 N.S.)
 (Amended 11-3-2006 by O-19549 N.S.; effective 12-3-2006.)

§33.3311 Peep Show Booth Entrances and Walls

The entrance to each *peep show booth* shall face a primary continuous aisle as described in Section 33.3309, and shall have a door. The entire viewing area of the *peep show booth* must be visible from the primary continuous aisle when the door is open.

The walls, and door of a *peep show booth* shall extend downward no further than eighteen inches above the floor.
 (“*Peep Show Booth Entrances and Walls*” added 11-20-2000 by O-18890 N.S.)
 (Amended 11-3-2006 by O-19549 N.S.; effective 12-3-2006.)

§33.3312 Legs and Supports of Peep Show Booths

A *peep show booth* shall have no more than four legs or supports. Any material used for legs or supports shall not exceed three and one-half inches square. With the exception of the legs or supports, nothing shall obstruct the view of any part of the viewing area which is within eighteen inches of the floor of any *peep show booth*.
 (“*Legs and Supports of Peep Show Booths*” added 11-20-2000 by O-18890 N.S.)

(11-2006)

§33.3313 Signage Required

- (a) A sign setting forth the following information shall be maintained in a conspicuous location in each *peep show booth*:
- “NOTICE: It is unlawful for this booth to be occupied by more than one person at any one time. This booth is subject to inspection at any time by management or peace officers. There is no expectation of privacy for any person entering or remaining inside this booth.”
- (b) All signs required by Section 33.3314(a) shall be at least six by eight inches in size and be printed with dark ink upon a light contrasting background with letters at least one-quarter inch in height.
- (c) There shall be a light or lighted sign on the exterior of each *peep show booth* which indicates whether the *peep show device* is in use and whether the booth is occupied.
- (“*Peep Booth Construction*” repealed; “*Signage Required*” added 11-20-2000 by O-18890 N.S.)

§33.3314 Apertures Prohibited

The *responsible person* shall not create or maintain any *peep show booth* with an aperture which permits contact or communication between occupants of any two or more *peep show booths*. This section is regulatory only.

(“*Minimum Aisle Width*” renumbered to Sec. 33.3309; “*Apertures Prohibited*” added 11-20-2000 by O-18890 N.S.)

§33.3315 Sufficient Lighting Required

The *responsible person* shall ensure that there is sufficient lighting along the floor of the *peep show booths* to allow inspection of the viewing area that is visible from the main continuous aisle. Lighting is deemed sufficient if it is at least six foot candles at floor level.

(“*Minimum Doorways and Entrances*” renumbered to Sec. 33.0308 and retitled; “*Sufficient Lighting Required*” added 11-20-2000 by O-18890 N.S.)

§33.3316 Walkways and Aisles

All walkways, aisles and hallways of *peep show establishments* shall be maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain or other device unless the area is out of service prior to or while being cleaned or repaired, in which case a sign shall indicate it is closed to all customers or *persons*.

(“*Lighted Exit Signs*” repealed; “*Walkways and Aisles*” added 11-20-2000 by O-18890 N.S.)

(11-2006)

§33.3317 Video Monitoring

There shall be a system of monitoring all areas of the *peep show establishment* open to the public, except rest rooms, either by direct viewing or by a system of video monitoring which allows viewing of each monitored area at least every sixty seconds by the *responsible person* on the *premises*.

No person shall operate a peep show establishment unless the complete interior of each peep booth is visible from the entrance to the viewing area of the peep booth. (*“Visibility of the Interior” repealed; “Video Monitoring” added 11-20-2000 by O-18890 N.S.*)

§33.3318 Peep Show Booths for the Physically Disabled

Any *peep show* built for use by a physically disabled *person* shall be clearly marked with a sign stating “Disabled Only.” It is unlawful for any *responsible person* to allow this booth to be used by any person other than a physically disabled person. Any *peep show booth* built for use by a physically disabled person may exceed the floor area requirements of Section 33.3310. (*“Minimum Lighting” repealed; “Peep Show Booths for the Physically Disabled” added 11-20-2000 by O-18890 N.S.*)

§33.3319 Toilets; Wash Basins; Trash Receptacles

A minimum of one toilet and wash basin shall be provided for the patrons in every *peep show establishment*. Each wash basin shall be provided with soap or detergent and sanitary towels placed in permanently installed dispensers. A trash receptacle shall be provided in each toilet room. (*“Peep Booth Minimum Size and Occupancy Load” renumbered to Sec. 33.3310, retitled and amended; “Toilets; Wash Basins; Trash Receptacles” added 11-20-2000 by O-18890 N.S.*)

§33.3320 Waterproof Floor Covering

In every *peep show establishment*, a waterproof covering shall be provided in each toilet room, which extends up the walls at least six inches. The floor covering shall be covered at the floor-wall juncture with at least a three-eighth inch radius. Walls of toilet rooms shall be smooth, waterproof and kept in good repair. (*“Maximum Number of Devices” repealed; “Waterproof Floor Covering” added 11-20-2000 by O-18890 N.S.*)

(11-2006)

§33.3321 Sanitary Condition Required

- (a) All walls, ceilings, floors, booths and all other physical facilities of *peep show establishments* shall be in good repair and maintained in a clean and sanitary condition.
- (b) Toilet rooms shall be thoroughly cleaned at least once each day the business is in operation.
- (c) The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions.

The presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary control.

(“Free Access to City Manager or Delegate” repealed; “Sanitary Condition Required” added 11-20-2000 by O-18890 N.S.)

§33.3322 Control of Vermin Required

All *peep show booth establishments* shall be maintained and operated to effectively control the entrance, harborage, and breeding of vermin, including flies. When flies or other vermin are present, effective control measures shall be instituted for their control or elimination.

(“Injunctive Relief” repealed; “Control of Vermin Required” added 11-20-2000 by O-18890 N.S.)

§33.3323 Persons Under 18 Prohibited

It is unlawful for any *responsible person* to allow anyone under the age of eighteen in a *peep show establishment*.

(“Exclusions” repealed; “Persons Under 18 Prohibited” added 11-20-2000 by O-18890 N.S.)

§33.3324 Hours of Operation

It is unlawful for any *person* to operate a *peep show booth* or *peep show device* between the hours of 2:00 a.m. and 6:00 a.m. on weekdays and 4:00 a.m. and 6:00 a.m. on weekends and holidays. Permit holders shall not be granted an after-hours permit pursuant to Division 8.

(“Variance” repealed; “Hours of Operation” added 11-20-2000 by O-18890 N.S.) (Amended 11-3-2006 by O-19549 N.S.; effective 12-3-2006.)

(11-2006)

§33.3325 Criminal Activity Prohibited

Each *responsible person* shall ensure that no criminal activity occurs on the *premises*, including inside the *peep show booths*.

(“Peep Show Establishments — Operating Requirements” repealed; “Criminal Activity Prohibited” added 11-20-2000 by O-18890 N.S.)