

ORDINANCE NO. 4452

**AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS,
ENACTING CHAPTER 10 OF DIVISION 4 OF THE VENTURA COUNTY
ORDINANCE CODE (SAFER SEX IN THE ADULT FILM INDUSTRY)**

The Board of Supervisors of the County of Ventura ordains as follows:

SECTION 1: Chapter 10 of Division 4 of the Ventura County Ordinance Code is hereby enacted to read as follows:

Chapter 10 - SAFER SEX IN THE ADULT FILM INDUSTRY ORDINANCE

4970 - Title.

This chapter shall be known as the “Safer Sex in the Adult Film Industry Ordinance.”

4971 - Findings and declarations.

The Board of Supervisors of Ventura County hereby finds and declares all of the following:

- (a) The HIV/AIDS crisis and the ongoing epidemic of sexually transmitted diseases, to which the making of adult films has contributed, have negatively affected public health and the quality of life of residents of Ventura County.
- (b) Safer sex practices can prevent and reduce the spread of HIV/AIDS and other sexually transmitted diseases.
- (c) Public health research has documented widespread transmission of sexually transmitted diseases by unprotected sexual activity such as occurs in the adult film industry in the metropolitan Los Angeles area.
- (d) The use of condoms and other biological barriers is the best and most effective way to stem the spread of sexually transmitted infections in the adult film industry.
- (e) Several organizations committed to protecting the public health have called

for mandatory use of condoms in the production of adult films, including the American Medical Association, the American Public Health Association, the California Conference of Local AIDS Directors, the California STD Controllers Association, the National Coalition of STD Directors, the National Association of City and County Health Officials, the AIDS Healthcare Foundation, and the California Medical Association.

- (f) Producers of adult films are required by California Code of Regulations Title 8, Section 5193 to use barrier protection, including condoms, to protect employees during the production of adult films and it is the intent of the ordinance codified in this chapter to discourage violations of those standards without duplicating or contradicting them as permitted by such cases as *Cohen v. Board of Supervisors* (1985) 40 Cal.3d. 227 and *Bravo Vending v. City of Rancho Mirage* (1993) 16 Cal.App.4th 383.
- (g) Many producers of adult films in the metropolitan Los Angeles region have been found to consistently violate the worker safety provisions of California Code of Regulations Title 8, Section 5193.
- (h) Recent efforts to promote safer sex in the adult film industry in Los Angeles County and municipalities in Ventura County have caused producers of adult films to seek out filming locations in unincorporated areas of Ventura County, creating an immediate threat to public health and safety.

4972 - Purpose and intent.

The purpose and intent of the ordinance codified in this chapter is to minimize the spread of HIV/AIDS and other sexually transmitted diseases in the production of adult films in Ventura County.

4973 - Urgency.

This ordinance is enacted as an urgency measure, based upon the findings set forth in Section 4971, and shall become effective immediately upon adoption by a four-fifths vote of the Board of Supervisors of Ventura County.

4974 - Definitions.

Unless the context demonstrates another meaning was intended, the following definitions shall apply to the construction of this chapter.

- (a) "Adult film" means any commercial film, video, multimedia or other representation (including live theater) of sexual penetration or oral sex, but excludes representations of simulations of such conduct under circumstances in which the sexual transmission of infectious disease is not foreseeable.
- (b) "Applicant" means a person who applies for a permit pursuant to Section 4975 of this chapter.
- (c) "Business day" means a day when the Ventura County Government Center is open to the public for the conduct of County business.
- (d) "Commercial" as applied to an adult film means either that: (1) the filming is intended to be or is remunerated by sale of adult films, advertising, or otherwise or (2) any person is compensated for services as a performer or for other services in production of the adult film, including but not limited to cameramen, sound artists, film editors, lighting artists, electricians, carpenters, and greensmen.
- (e) "County" means the unincorporated area of the County of Ventura.
- (f) "Director" means the Director of Public Health of the County and his or her designees.
- (g) "Filming" shall mean the production of any adult film and includes the conduct identified in subsection (l) of this section below.
- (h) "Oral sex" means conduct by which a performer makes oral contact with the anus or genitals of another performer.
- (i) "Performer" means any person who engages in sexual penetration or oral sex in the filming of an adult film as one or more of the following: (1) the penetrator, (2) the one penetrated, (3) the person who makes oral contact or (4) the person who is the object of such contact.
- (j) "Permittee" means a person issued a permit pursuant to Section 4975 of this chapter.
- (k) "Permit" means the document issued by the Director that authorizes the permittee to engage in the activities identified in this chapter.

- (l) “Producer of adult film” means: (1) any person who compensates a performer to engage in sexual penetration or oral sex in the production of an adult film, and (2) any person engaged in the production of an adult film with authority to govern the workplace conduct of performers. “To produce an adult film” means to engage in conduct which makes one a producer of an adult film.
- (m) “Sexual penetration” means oral, vaginal, or anal penetration by a part of the human body or by an inanimate object.

4975 - Permit requirement.

- (a) No person shall produce an adult film in the County without first obtaining a permit pursuant to this section.
- (b) The Director shall issue a permit under this section within fourteen (14) business days of receipt of a completed application on a form he or she designates for that purpose unless he or she determines on the basis of substantial evidence that one or more of the following is true:
 - (1) The applicant failed to provide the information requested on the application form or the information provided is false or intentionally misleading;
 - (2) The applicant failed to pay any fee lawfully established by the County for the issuance of such permits;
 - (3) The applicant failed to acknowledge receipt of a copy of this chapter (which the Director shall provide) by signing where indicated on the application form or otherwise; and/or
 - (4) The information provided on the application demonstrates that the activity for which the permit is requested would violate this chapter or other applicable law.
- (c) The application form designated by the Director shall require only information needed to reasonably demonstrate notice of and compliance with the requirements of this chapter and other provisions of this code. In particular, the application form shall not inquire into the substantive content of an adult film other than as reasonably necessary to determine that the

film is an adult film.

- (d) If the Director denies a permit pursuant to paragraph (b) of this section, he or she shall give the applicant written notice of that denial and the reason(s) for it within fourteen (14) business days of his or her receipt of an application. Written notice directed to the applicant by any means possible in light of the information provided by the applicant, including personal delivery, mail, telecopier or facsimile, email, or other means likely to achieve actual notice, shall be sufficient.
- (e) Denial of a permit under this section shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.8 as it now exists or may hereafter be amended.
- (f) The permittee shall abide by all applicable health and safety regulations, including the worker safety provisions of California Code of Regulations Title 8, Section 5193 and the condom requirements stated in Section 4977 of this chapter.
- (g) The permittee must post a copy of the permit and this chapter at every site where production of an adult film depicting sexual penetration or oral sex takes place and maintain it in a place easily visible to all performers while production takes place there. In addition, a legible sign shall be displayed at all times at the location where any adult film is filmed in any conventional typeface with a font size not smaller than 36 points, that provides the following notice so as to be clearly visible to all performers:

The use of condoms is required for all acts of anal, oral, or vaginal sex during the production of adult films to protect performers from sexually transmitted infections.
- (h) The Director, on the basis of a complaint or other information, may conduct an investigation of the filming location. The permittee shall upon request (1) permit the Director to review all film or other media evidencing sexual penetration or oral sex in the production of an adult film in the County, whether or not the film or media is included in an edited version of the adult film, and (2) allow the Director to inspect, during production or otherwise, any filming location at which sexual penetration or oral sex in the production of an adult film takes place. Officers duly authorized by the

Director to conduct the inspection may enter and inspect the filming location, issue citations, and secure any samples, photographs, or other evidence relating to the permittee's compliance with this chapter.

4976 - Permit exceptions.

No permit under this chapter shall be required for non-commercial activity or other conduct within the scope of the privacy rights afforded by the Constitutions of the United States or of California.

4977 - Condom requirements.

Performers and producers of adult films, as applicable, shall comply with the following requirements:

- (a) Condoms or dental dams shall be used in the production of every adult film in the County in every instance of oral sex and in every instance of sexual penetration.
- (b) Condoms used in the production of an adult film in the County shall be lubricated with a condom-safe water- or silicone-based lubricant.
- (c) An adequate supply of condoms and dental dams shall be made available at the filming location of an adult film in the County at no cost to performers.

4978 - Adult film permit application fees.

The Board of Supervisors may from time to time establish fees to recover from applicants and permittees the costs authorized by Article XIII C, Section 1, subdivision (e) of the California Constitution and other applicable law.

4979 - Violations.

Any person or entity who produces or films an adult film for commercial purposes in the County without a valid permit, or any person, who violates any law, ordinance or regulation governing any activity regulated by this chapter, or who, upon demand of the Director, refuses or neglects to conform to a lawful order or directive of the Director pertaining to conduct regulated by this chapter, is guilty of a misdemeanor punishable by a fine of \$1,000, imprisonment in the County jail for a period not to exceed six months, or both. Each such act is punishable as a separate offense.

4980 – Severability.

If any provision of this chapter, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this chapter are severable.

PASSED AND ADOPTED this 7th day of May, 2013, by the following vote:

AYES: Supervisors Bennett, Parks, Long, Foy and Zaragoza

NOES: None

ABSENT: None


CHAIR, BOARD OF SUPERVISORS

ATTEST:

MICHAEL POWERS
Clerk of the Board of Supervisors
County of Ventura, State of California



By: 
Deputy Clerk of the Board