

ARTICLE 9

PEEP SHOW ESTABLISHMENTS

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ARTICLE 9

PEEP SHOW ESTABLISHMENTS

SEC. 6-9.00 PEEP SHOW ESTABLISHMENTS: PURPOSE AND INTENT. It is the purpose and intent of the City Council that the operation of peep show establishments, as defined in this Article, should be regulated for the protection of the public from the perils of fire, hazard to health, and for the preservation of the peace of the community.

SEC. 6-9.10 DEFINITIONS.

- a. "Peep Show Establishment" shall mean any place in which a peep show device is operated.
- b. "Peep show device" shall mean an aperture through which may be viewed images that are exhibited by means of the projection or internal electronic reflection of motion picture film, or slides, or both.

SEC. 6-9.11 PERMIT. No person shall operate a peep show device unless a permit for the operation of said device has been issued by the Permits and License Division of the Finance Department of the City and remains in effect in conformity with the provisions of this Article and with Article 1 of this Chapter.

SEC. 6-9.12 PERMIT TERM. No permit shall be issued by said division of the Finance Department for a period in excess of six (6) months. The expiration dates of said permit shall be June 30th and December 31st of each year.

SEC. 6-9.13 PERMIT FEE. Every person owning or operating a peep show device shall pay the permit fee established by resolution of the City Council. Any person applying for a permit for a period of less than six (6) months shall pay a prorated fee.

SEC. 6-9.14 APPLICATIONS FOR PERMIT - INVESTIGATION FEE. All applications for a permit, or for the renewal of a permit, shall be accompanied by an investigation fee in the sum established by resolution of the City Council. In the event the permit is granted or renewed, the sum shall be applied to the permit fee required by Section 6-9.13. In the event the permit is denied, the investigation fee shall not be refunded to the applicant.

SEC. 6-9.15 PERMIT: INVESTIGATION. Every applicant shall file an application for a permit, or for the renewal of a permit, with the Permits and License Division of the Finance Department of the City of Hayward upon the form provided by the Division. Immediately upon the receipt of an application, said application shall be delivered to the City Manager or his delegate. The City Manager or his delegate shall cause to be made an investigation of the application to determine that:

- a. The applicant did not knowingly make a material misstatement in the application for a permit or for the renewal of a permit., and
- b. The operation pursuant to the issuance or renewal of a permit will be in compliance with the building, fire, electrical, plumbing and health requirements as set forth in this

Article; and

- c. The operation pursuant to the issuance of a permit will be in compliance with all applicable laws.

SEC. 6-9.16 ISSUANCE OR DENIAL OF PERMIT. If, upon investigation, the City Manager, or his delegate, finds that the operation pursuant to the issuance or renewal of a permit will be in compliance with the requirements described in SEC. 6-9.15 the permit shall be granted or renewed. Any application for a permit or for the renewal of a permit may be denied if, after the applicant has been given the opportunity for a hearing as described in SEC. 6-9.20 the City Manager or his delegate finds that the operation pursuant to the issuance or renewal of a permit will not be in compliance with the requirements described in SEC. 6-9.15. The City Manager or his delegate, shall file a report of the approval or denial of the application with the Permits and License Division of the Finance Department within thirty (30) days of the receipt of said application. If the application for a permit or for the renewal of a permit is denied, the notification and reasons for denial shall be set forth in writing and sent to the applicant by means of registered mail, certified mail, or hand delivery.

SEC. 6-9.17 SUSPENSION OR REVOCATION OF PERMIT. Any permit issued hereunder may be suspended or revoked if, after the permittee has been given the opportunity for a hearing as described in SEC. 6-9.20, the City Manager, or his delegate, finds that:

- a. The permittee knowingly made a material misstatement in the application for the permit or for the renewal of a permit; or
- b. The permittee violated any one of the requirements as set forth in this Article which define building, fire, electrical, plumbing or health standards; or
- c. The operation pursuant to the permit will not be in compliance with all applicable laws.

In the event that a permit is suspended or revoked, the notification of suspension or revocation, as well as the reasons therefor, shall be set forth in writing and sent to the permittee by means of registered mail, certified mail, or hand delivery.

SEC. 6-9.20 HEARING. In the event that the City Manager or his delegate has evidence that any of the requirements described in SECS. 6-9.15 and 6-9.17 have not been complied with, he shall set forth in writing and send to the applicant or permittee, by means of registered mail, certified mail, or hand delivery, notice that within a period of not less than five (5) days from the date of said notice, a hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial of a permit or permit renewal, the suspension or revocation of a permit. The notification shall include the date, time and place of the hearing as well as a statement of the facts relevant to the case. The hearing may be conducted by a hearing officer appointed by the City Manager. The applicant or permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the applicant or permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial of a permit or permit renewal, the suspension of a permit or the revocation of a permit, shall be considered un rebutted.

SEC. 6-9.21 APPEAL. Within fourteen (14) days after the date of notification that an application for a permit has been denied, a permit suspended or revoked, or a renewal denied, the applicant or permittee may file with the Clerk of the Council a written request for a public hearing

before the City Council. Upon the filing of such request, the Clerk of the Council shall set a time and place for hearing and shall notify the appellant thereof. The hearing shall be held within thirty (30) days after the request is filed. At the hearing any person may present evidence in opposition to or in support of, appellant's case. At the conclusion of the hearing the City Council shall either grant or deny the appeal and the decision of the City Council shall be final.

SEC. 6-9.22 NO PERMIT ONE YEAR AFTER REVOCATION. No person who has a permit for a peep show device revoked may obtain a peep show device permit within a period of twelve (12) months from the date of revocation.

SEC. 6-9.23 PERMIT AFFIXED TO DEVICE. No person shall operate a peep show device unless each such device is plainly marked with a serial number and shall have attached thereto a distinguishing tag, sign, permit or other marker issued by the Permits and License Division of the Finance Department upon the granting or renewal of a permit, which shall bear a permit number identifying the peep show device as a particular device permitted pursuant to the terms of this Article. Such permit shall be affixed in a conspicuous location on each device and shall remain thereto until a new or different permit has been issued therefor. No permit shall be transferable from one person to another or from one device to another.

SEC. 6-9.30 WALL, PARTITION CONSTRUCTION. No person shall operate a peep show establishment unless walls or partitions which are situated so as to create a room, enclosure, or booth, in which any peep show device is located, shall be constructed of not less than one hour fire resistant construction as specified in the Hayward Building Code.

SEC. 6-9.31 MINIMUM AISLE WIDTH. No person shall operate a peep show establishment in which the width of the aisles in any room where a peep show device is located is less than forty-four (44) inches.

SEC. 6-9.32 MINIMUM DOORWAYS. No person shall operate a peep show establishment unless there are at least two exit doorways with a minimum width of thirty-six (36) inches and the required doors shall swing in the direction of travel. One (1) doorway may be permitted when the Building Official has determined one door will provide adequate egress. Exit doors shall be openable from the inside without use of a key or any special knowledge or effort. Flush bolts or surface bolts are prohibited.

SEC. 6-9.33 LIGHTED EXIT SIGNS. No person shall operate a peep show establishment unless an internally illuminated sign is installed at every required exit doorway and wherever otherwise required to clearly indicate the direction of egress. An exit sign with letters at least five (5) inches shall be provided.

SEC. 6-9.34 PATRON VIEW OF DOORWAY. No person shall operate a peep show establishment unless each peep show device located in such establishment is situated so as to permit the person using the peep show device to have a constantly unobstructed view of the doorway or doorways which provide ingress to or egress from the establishment.

SEC. 6-9.35 MINIMUM LIGHTING. No person shall operate a peep show establishment unless a light level of no less than ten (10) foot candles at floor level is maintained in every portion of said establishment to which the public is admitted.

SEC. 6-9.36 MAXIMUM OCCUPANCY LOAD. No person shall operate a peep show establishment in which the number of persons in any room or partitioned portion of a room where a peep show device is located exceeds one person per thirty (30) square feet. The maximum

occupancy load permitted in any room or partitioned portion of a room in which a peep show device is located shall be conspicuously posted by the operator, and shall remain posted, at the entrance to said room.

SEC. 6-9.37 MAXIMUM NUMBER OF DEVICES. No person shall operate a peep show establishment in which the number of peep show devices exceed the permitted occupant load, as determined in SEC.6-9.36, in any room or portion of a room where a peep show device is located. The maximum number of peep show devices permitted within any room or portion of a room shall be conspicuously posted by the operator or owner and shall remain posted at the entrance to such room.

SEC. 6-9.38 FREE ACCESS TO CITY MANAGER OR DELEGATE. No person shall deny the City Manager or his delegate free access to a peep show establishment for purposes of a reasonable inspection to enforce compliance with building, fire, electrical, or plumbing regulations.

SEC. 6-9.39 INJUNCTIVE RELIEF. In addition to the legal remedies provided for in this Code, the operation of any peep show establishment in violation of the terms of this Article shall be deemed a public nuisance and may be, by the City of Hayward, enjoined.