



## LAND USE SERVICES DEPARTMENT PLANNING STAFF REPORT



HEARING DATE: December 19, 2013

AGENDA ITEM NO: 2

### **Project Description:**

**Applicant:** Land Use Services Department  
**Proposal:** An ordinance to amend Title 8 of the County Code to revise the development standards for adult-oriented businesses, to revise the locational criteria for such businesses, to add a new land use review process to approve an adult-oriented business, to revise the definitions related to adult-oriented businesses  
**Community:** Countywide  
**Location:** Countywide  
**Project No:** P201300604  
**Staff:** Jim Squire

### **BACKGROUND:**

The County of San Bernardino initially adopted adult-oriented businesses regulations in 1985. The last comprehensive revision to these initial provisions was in 1991, with the adoption of Ordinance 3465.

The proposed ordinance is a comprehensive revision of the County's existing regulations for adult uses and addresses licensing and permitting provisions; operating standards for adult facilities and zoning limitations for adult-oriented businesses. The purpose and intent of the proposed amendments to the San Bernardino County Code are to:

- (1) mitigate and reduce the judicially recognized potential adverse secondary effects of adult-oriented businesses including, but not limited to, crime, the prevention of blight in neighborhoods, and the increased spread of sexually transmitted diseases;
- (2) protect quality of life and neighborhoods in the County, the County's retail and commercial trade, and local property values, and minimize the potential for nuisances related to the operation of adult-oriented businesses;
- (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize adult-oriented businesses; and
- (4) minimize the potential for nuisance related to the operation of adult-oriented businesses.

To achieve these desired goals, the proposed ordinance establishes reasonable time, place, and manner restrictions on the adult-oriented businesses in the unincorporated areas of San Bernardino County. These are coupled with zoning or locational criteria which are also legitimate and reasonable means of regulating adult facilities. There are two generally accepted approaches to regulating the location of adult-oriented businesses – (1) the “dispersal” method and (2) the “concentration” method. With the dispersal method adult uses are buffered a set distance from

Action taken by the Planning Commission on this item may be appealed to the Board.  
 Note: Recommendations to the Board of Supervisors are not appealable.

Yes ☐ No ☒

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various sensitive land uses (i.e., parks, schools, residential zones) and from other adult uses. With the concentration method adult uses are all located in one area such as what is known as the “combat zone” in Boston. The County has selected the dispersal method.

#### **A. Legal Basis/Constitutional Constraints.**

Adult-oriented businesses, such as adult bookstores, adult videos stores, and adult cabarets, engage in activities recognized as protected speech under the First Amendment of the United States Constitution. For example, nude dancing has been found by the U.S. Supreme Court to be on the outer margins of protected activity. (See *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991)). As providers of protected First Amendment speech, the courts have uniformly ruled that these types of adult-oriented businesses cannot be prohibited. Adult-oriented businesses can, however, be regulated. Traditional constitutional analysis divides the range of speech regulations into two main categories: (1) content based; and (2) content neutral (i.e., regulations not based on content but rather imposing reasonable time, place, and manner restrictions). Content-based regulation is specifically aimed at the speech’s content, and any such content based regulation carries with it a very high burden to find such legally adequate mandating that the public entity show it has a compelling interest in its regulation. In contrast, content neutral regulations are aimed at protecting governmental interests unrelated to the content of speech, such as traffic or noise regulation applied to all types of commercial uses for purposes of furthering the public health, safety and welfare.

The United States Supreme Court in the *County of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), addressing Renton, Washington’s adult use ordinance, held that whether a time, place, and manner regulation is content neutral is to be determined by looking at the regulation’s purposes, i.e. is the purpose the reduction of secondary effects versus the suppression of the offensive or unpopular speech. A County may adopt regulations to curb the deleterious secondary effects of adult uses, but suppression of the speech is impermissible. A content neutral time, place, and manner regulation must serve a substantial government interest and be reasonably tailored to preclude secondary effects. Courts have also recognized that a County’s interest in protecting the quality of life and finding creative solutions to address adult uses deleterious secondary effects must be accorded the highest respect. *County of Los Angeles v. Alameda Books*, 535 U.S. 425, 122 S.Ct. 1728, 152 L.Ed.2d 670 (2002).

The proposed ordinance is content neutral under the *Renton* standard because it is designed to further the County’s purposes and goals in limiting and preventing the deleterious secondary effects associated with adult-oriented businesses. The extensive findings set forth in the proposed ordinance fully support the regulations therein. In *SDJ, Inc. v. County of Houston*, 837 F.2d 1274 (5th Cir. 1988), cert. denied 480 U.S. (1989), the court remarked on the importance of findings: “Insisting on findings reduces the risk that a purported effort to regulate effect is a mask for regulation of content. That is, evidence of a legitimate purpose is supported by proof that secondary effects actually exist and are the result of the business subject to the regulation....”

As a result of the First Amendment protection afforded to various adult-oriented businesses (adult bookstores, video stores and live entertainment), conditions cannot simply be imposed upon an adult facility in an effort to preclude the facility’s operation. Any condition(s) must be predicated on the reduction of the secondary effects. These adverse secondary effects include: urban blight; increased crime; decreased property values; diminished retail trade; prostitution; the spread of sexually transmitted diseases; and illegal drug transactions. It is important to note that the purpose of the proposed ordinance is not to prohibit or otherwise regulate child pornography or obscenity because such material is not now, nor has it ever been, granted constitutional protection.

Furthermore, local regulation of obscene material has been preempted by state and federal law. Rather, the intent of the proposed ordinance is to address the adverse secondary effects that are caused by adult-oriented businesses.

Case law also recognizes that a community can plan ahead and put in place operational and zoning standards prior to the entry of an adult facility into the community. The United States Supreme Court held that it is not necessary for a County to conduct its own studies regarding the presence of negative secondary side effects associated with adult-oriented businesses. *County of Los Angeles v. Alameda Books*, 535 U.S. 425, 122 S.Ct. 1728, 152 L.Ed.2d 670 (2002). The Court specifically determined that cities may reasonably rely on the experiences and studies of other cities in concluding that adult-oriented businesses create the aforementioned negative secondary side effects.

The supporting materials provided as exhibits to this staff report, as well as input from County staff, County Counsel, and the County's special counsel, contributed to crafting the recommended operational requirements found in the proposed ordinance which we believe are a constitutional, narrowly tailored means of controlling potential secondary effects of adult-oriented businesses. On file with the Land Use Services Department is the set of the exhibits in support of this ordinance. Included among the exhibits are the cases referred to in the ordinance, the studies of other cities relating to the secondary effects of adult uses, and other supporting documentation. We have also included a number of materials relating to testimony from current and former dancers and other employees of adult-oriented businesses or persons affiliated with the adult-oriented business industry, which support the need for the recommended operational requirements. A summary of a portion of these studies is attached to this staff report. In addition, it should be noted that all regulations and amendments to those regulations pertaining to adult-oriented businesses will get close judicial scrutiny because of the sensitive nature of these regulations relative to the First Amendment rights.

## **B. Permitting and Operational Standards (Ordinance Sections 3 and 6).**

The County has put forth a comprehensive adult-oriented business ordinance that is state of the art. The operational requirements contained in the ordinance are designed to reduce/eliminate the negative secondary effects from adult-oriented businesses. The requirements include:

- (1) Restricting hours of operation;
- (2) Lighting requirements (interior and exterior);
- (3) Precluding direct touching between patrons and performers of live adult entertainment establishments;
- (4) Requiring that performers and patrons maintain a six-foot distance separation;
- (5) Precluding direct tipping and/or payment for live adult entertainment performers;
- (6) Requiring a fixed stage with a barrier or rail;
- (7) Separate entrances;
- (8) Separate restrooms;
- (9) No doors on arcade booths; and
- (10) Unobstructed view of the interior of the premises of an adult-oriented business.

Each of these operational criteria is designed to address concerns regarding prostitution, drug transactions and illicit sexual activity.

In reviewing the County's existing regulations in light of the extensive existing case law, it is warranted that operating provisions should be added or enhanced to reduce and/or preclude

secondary effects. It is important to note that experiences in other cities have demonstrated that potential adverse secondary effects generated by adult-oriented businesses cannot be adequately addressed by locational restrictions alone. For example, the cities of La Habra, Anaheim and Arcadia have extensive experience with adult facilities focused on totally nude “juice bars.” Nude “juice bars” are adult facilities that feature totally nude dancers without the provision of alcoholic beverages. These types of facilities are not regulated by the *Alcoholic Beverage Control Department*, which further mandates the need for the County’s operational standards. Nude juice bars require carefully tailored regulations to reduce the adverse secondary effects that such facilities bring to a community.

At many totally nude clubs, the establishments also offer “off-stage” performances commonly known as “lap,” “couch” or “table” dancers. This type of conduct typically consists of direct physical touching and/or the provision of “specified sexual activities” or the simulation of “specified sexual activities” for a fee after the dancers conclude a main stage performance. At clubs in La Habra and Anaheim, it has been typical for performers wearing only g-string bikinis to straddle the laps of male patrons, writhing and rubbing their bikini-covered breasts on patrons’ chests while rubbing and fondling the patrons’ genitals over their clothing. As more fully discussed below, the proposed ordinance precludes this type of extreme “off-stage” activity, along with its companion noted secondary effects of prostitution and/or illegal drug transactions.

### **1. Arcade Booths/Individual Viewing Areas.**

The interior configuration of adult-oriented businesses, specifically those that include video viewing booths, is an important area for regulation. This is because in many communities, these booths have become a common site for illicit sexual activity. This ordinance proposes to require that arcade booths/individual viewing areas shall not “be occupied by more than one individual at a time,” “shall be visible from a continuous and accessible main aisle in a public portion of the establishment,” “shall not be obscured by any door, curtain, wall, two-way mirror or other device,” shall have “no holes or other openings” between booths, and shall have “no beds, couches or chairs with a sitting area greater than 24 inches.” All of these requirements have been routinely upheld in court and are constitutionally sound.

As arcade booths and/or closed individual viewing areas are a magnet for illicit sex, the use of either is conducive to the spread of communicable diseases found to be of danger to persons frequenting such premises and to the public health. The public health of all people in the County must be protected by the establishment of standards for such premises to eliminate the possibility of infection of contagious diseases. Of specific danger is the sexually transmitted disease AIDS currently found to be irreversible and fatal. The incidence of this disease is found to occur in discernable population groups, and the risk factors for obtaining or spreading the disease are associated with high-risk sexual conduct with multiple partners. The County Planning Commission and ultimately the Board of Supervisors are asked to take legislative notice of the facts recited in *Berg v. Health and Hosp. Corp. of Marion County, Ind.*, 865 F.2d. 797, 799 (7<sup>th</sup> Cir. 1989), allowing the removal of doors on booths as a valid response to a legitimate concern about multiple sexual encounters that facilitated the spread of AIDS.

The County Planning Commission and the Board of Supervisors are also asked to take notice of statistics provided by the County’s Department of Public Health, the Department of Public Health for Riverside County and Health and Human Agency of the County of San Diego on HIV/AIDS and other sexually transmitted diseases. See Exhibits, Vol. V. The County Board of Supervisors also is asked to take legislative notice of the findings set forth in the 1986 Attorney General’s Report on Pornography in support of the ordinance including, but not limited to, its recommendation that local

governments ban certain features of peep show booth that facilitate sexual encounters. See Exhibits, Vols. III and IV.

## **2. Live Entertainment.**

Adult-oriented businesses providing live entertainment have been subject to regulations uniquely tailored to reduce/eliminate their companion secondary effects. The experiences of other cities have demonstrated that establishments allowing touching and physical contact between performers and patrons have high instances of illicit sexual activity or narcotics transactions occurring on the premises. In an effort to reduce these secondary effects, cities have passed, and courts have uniformly upheld, ordinances imposing performer-patron distance restrictions and no touching provisions. (See *Colacurcio v. County of Kent*, 163 F.3d 545 (9th Cir. 1998); *Gammoh v. County of La Habra*, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875, cert. denied 126 S.Ct. 374.)

As to “couch,” “lap,” table or similar one-on-one private “dances,” courts have held that those types of so called lap dances are not expressive activity and a County may regulate this conduct. (see *Tily B., Inc. v. County of Newport Beach*, 69 Cal. App 4<sup>th</sup> 1 (1998); *Colacurcio v. County of Kent*, 163 F. 3d 545 (9<sup>th</sup> Cir. 1998), cert. denied 529 U.S. 1053 (2000); *Kev, Inc. v. Kitsap County*, 793 F. 2d 1053 (9<sup>th</sup> Cir. 1986). The proposed ordinance prohibits this type of off-stage performances by requiring all adult live performances be confined to a fixed main stage and requiring that patrons and performers be six feet apart. The operating standards found in the proposed ordinance for live entertainment have been approved by case law and most recently validated in the 2005 published 9<sup>th</sup> Circuit case of *Gammoh v. County of La Habra*, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875, cert. denied 126 S.Ct. 374.

## **C. Permitting Provisions.**

The proposed ordinance provides a permitting procedure for the issuance of an Adult-oriented Business Regulatory Permit. The proposed ordinance’s permitting criteria are specifically defined and set out a specific time frame for action, hearing, decision, etc. All of these precise criteria and fast track time limits are mandated by the body of constitutional law in this area.

It should be noted that the previous requirement that an adult-oriented business obtain a Conditional Use Permit has been removed. All adult-oriented businesses will have to comply with the requirements of Chapter 84.02 of Title 8, all adult live entertainers will have to comply with Chapter 28 of Division 1 of Title 4, and all non-performers will have to comply with Chapter 29 of Division 1 of Title 4.

Adopting the proposed ordinance provides comprehensive operational standards along with permitting provisions for adult-oriented businesses for the County and serves to thoroughly regulate the harmful secondary effects of these businesses. The proposed ordinance strikes the requisite balance between the County’s interests in protecting the public safety, health, and welfare and the constitutional protection afforded adult-oriented businesses.

The proposed changes to the San Bernardino County Code are consistent with the County’s Development Code and the General Plan. For example, Section 84.02.010 (Purpose) provides:

“It is the purpose and intent of this chapter of the County Code to regulate the operations of adult businesses, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of adult

businesses; degradation of the unincorporated County's commercial and industrial base; increases in vacancies in residential areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of adult businesses as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of adult businesses while at the same time protecting the First Amendment rights of those individuals who desire to own, operate or patronize adult businesses"

Some of the General Plan Policies in the Land Use Element of the General Plan that support the proposed locations for adult-oriented businesses include in whole or relevant part:

- LU 1.1** Develop a well-integrated mix of residential, commercial, industrial, and public uses that meet the social and economic needs of the residents in the three geographic regions of the County: Valley, Mountain, and Desert.
- LU 1.2** The design and siting of new development will meet locational and development standards to ensure compatibility of the new development with adjacent land uses . . .
- LU 2.2** When more intensive development is proposed adjacent to developed large lots, then the new development shall be required to provide adequate buffering, so that compatibility between rural residential uses and more urban uses may be maintained.
- LU 3.1** Protect areas best suited for commercial uses by virtue of their location, access to major arterials, and availability of infrastructure and other utilities, from other incompatible uses.
- LU 4.1** Protect areas best suited for industrial activity by virtue of their location and other criteria from residential and other incompatible uses.

As these policies illustrate it is important that the County preserve the commercial, industrial and residential zones within its jurisdiction and ensure that the siting of any potential adult facility has a sufficient buffer to preclude sensitive uses being negatively impacted by deleterious secondary effects. The ordinance is consistent with both the General Plan and the Development Code.

#### **D. Zoning and Locational Regulations.**

There is no "mathematical formula" or set "litmus test" established by the courts to determine the number of sites that must be zoned to be available for adult uses. The issue is examined on a case-by-case basis, looking at the particular land use and demographic characteristics of the community.

San Bernardino County, with a land area of 20,106 square miles, is the largest County in the United States. The County traverses approximately 13 percent of the state's area. Even though the County is so large, only 15 percent of the area is unincorporated area that is within the County's jurisdiction. The remainder of the land is either within an incorporated city or town ("city") or under the jurisdiction of a state or federal agency. Currently, the total population of the County

is 2,059,699, with the population for just the unincorporated area being 294,626. Thus, less than 1 out of 6 County residents (14 percent) resides within unincorporated territory.

The County's general plan and zoning map designates all parcels of land within the unincorporated County area for some type of use – such as residential, commercial, industrial, etc. There are four general land use categories identified in the San Bernardino General Plan. Within the Agricultural and Resource Management category, there are four land use zoning districts – Resource Conservation, Agriculture, Floodway and Open Space. Within the Residential category, there are three land use zoning districts – Rural Living, Single Residential and Multiple Residential. Within the Commercial category, there are six land use zoning districts – Rural Commercial, Neighborhood Commercial, Office Commercial, General Commercial, Service Commercial and Highway Commercial. Within the Industrial and Special Purpose category, there are six land use zoning districts – Community Industrial, Regional Industrial, Institutional, Special Development-Residential, Special Development-Commercial and Special Development-Industrial. According to the 2007 County General Plan, the County has approximately 37.92% of area used for or designated for residential uses, 0.68% for commercial uses, 1.21% for industrial uses, and the remaining 60.19% for other uses. This means that only 1.89% of the area under the County's jurisdiction is designated for commercial and industrial uses.

With regard to unincorporated areas that are within a sphere of influence of one of the 24 cities located within the County, Section 65300 of the California Government Code places a dual mandate on both cities and the County relating to land use planning within these areas. With the exception of the area within the boundaries of the Valley Development Agency, the County acknowledges that the land use policies adopted in the County's General Plan for the spheres of influence areas are designed to encourage annexations or incorporations. Because these spheres of influence represent areas within the "ultimate boundaries" of cities, it can be expected that, over time, some areas within spheres of influence will be annexed into cities. Thus, the current proportion of County population within unincorporated areas (14 percent) can be expected to decrease over time.

The Ninth Circuit in *Topanga Press, Inc. v. County of Los Angeles*, 989 F.2d 1524 (9th Cir. 1993) set out established criteria for determining whether sites are actually available in the "relevant commercial market" by examining if:

- There is a genuine possibility that the site is potentially available. In other words, is it reasonable "to believe that [the site] would ever become available to any commercial enterprise?"
- If the sites are in manufacturing zones, are they reasonably accessible to the general public.
- If the sites are in manufacturing zones, do they have proper infrastructure such as sidewalks, road and lighting.
- If the sites are in manufacturing zones, can they serve a generic commercial purpose such as retail or places of assembly.
- The sites are commercially zoned.

The court in *Topanga Press* rejected Los Angeles' attempt to include sites that were clearly unavailable such as areas under water, landfills and airport sites. Other examples of unavailable

sites include lands used for large warehouses, lands that are part of a sewage treatment facility, lands that are part of an existing hospital, and large oil refineries. To avoid the pitfalls of *Topanga Press*, the County has excluded any sites that are outside of the “relevant commercial market” from its site analysis.

Based on the size of the County’s unincorporated area, the size of the unincorporated population, and the distribution of unincorporated population, staff analyzed lands within the CG (General Commercial) and IC (Community Industrial) land use zoning designations at three potential buffer distances (250, 500, and 750 feet) from sensitive uses. Because the RL zone covers such a large portion of the desert region, it was not feasible to maintain locational criteria that would provide for physical separation for adult business uses from land zoned RL. Instead, recommended location criteria provide for separation from residential uses in the RL zone, and from the zoning boundaries of all other residential zones. In addition, prior to 1989, residential uses were allowed to locate in the IC zone. That provision was changed in 1989, when such uses were no longer permitted in this zone. This action in 1989, however, made all existing residences in the IC nonconforming. Due to the fact that these nonconforming residences currently exist in the IC zone, staff determined that it is also not feasible to maintain a 500-foot separation of these residences from adult business uses in this zone, while trying to provide an adequate number of sites for these businesses to potentially locate.

Based on these evaluations, staff determined that with a 500-foot separation from residential zones (other than the RL zone), religious institutions, grade K-12 schools, and parks, and a 250-foot separation from residential uses in the RL zone and residential uses in the IC zone, there are approximately 59 potential sites within the CG zone and 143 potential sites within the IC zone in unincorporated portions of the County that would meet the locational criteria of the proposed ordinance amendment for adult businesses and the *Topanga* criteria. After reviewing the available sites with these criteria and discussion with County Counsel and Special Counsel, staff has concluded that the proposed ordinance amendment provides for a reasonable number of available sites to meet applicable legal requirements for adult businesses.

Moreover, the locational requirements contained in the proposed Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult-oriented businesses in the County, and a sufficient and reasonable number of alternative locations for adult-oriented businesses are provided by the County of San Bernardino. The United States Supreme Court decision in *County of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 106 S.Ct. 925 (1986) requires that the County provide adult-oriented businesses a reasonable opportunity to open and operate. The Ninth Circuit decisions in *Topanga Press, Lim v. County of Long Beach*, 217 F.3d 1050 (9th Cir. 2000), *cert. denied* 531 U.S. 1191 (2001), and *Isbell v. County of San Diego*, 258 F.3d 1108 (9th Cir. 2001) with respect to availability of sites for adult-oriented businesses support a finding that there are sufficient sites available for adult-oriented businesses within the County.

Thus, under the locational and zoning provisions at play in San Bernardino County, the criteria set forth above provide a reasonable range of available sites. It should also be noted that there are 24 incorporated cities within San Bernardino County, which house the majority of the population within the County. These cities are all constitutionally required to have a reasonable number of sites within their jurisdictions for adult-oriented businesses, further increasing the pool of potential sites for adult businesses within the County.

### **Environmental Analysis:**

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was conducted to determine whether the proposed draft Adult-oriented Business Ordinance could have a significant adverse effect on the environment. On the basis of that study, staff has determined the proposed ordinance will not have a significant adverse impact on the environment and is therefore proposing adoption of a Negative Declaration by the County Board of Supervisors. The Initial Study has been circulated for the required 20-day comment period starting December 1, 2013, with the public comment period ending December 23, 2013. No comments were received on the Negative Declaration.

### **FINDINGS FOR THE DEVELOPMENT CODE AMENDMENT:**

1. The ordinance is necessary for and will protect the health, safety, and welfare of those within the County and is a reasonable exercise of the County's police powers;.
2. The proposed amendment is consistent with the General Plan and any applicable community plan or specific plan;
3. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County; and
4. The proposed amendment is internally consistent with other applicable provisions of this Development Code; and
5. The proposed ordinance sets forth procedures to evaluate and approve or deny adult-oriented businesses. As part of that process, an application packet has been prepared that includes environmental performance standards that, when implemented, will ensure significant environmental effects are avoided or minimized. This review process includes safeguards to ensure that projects for adult-oriented businesses avoid or minimize all impacts to the environment associated with implementation of the proposed ordinance.

**RECOMMENDATION:** The Planning Commission recommends that the Board of Supervisors:

- A. ADOPT the proposed ordinance to amend Title 8 of the County Code to revise the development standards for adult-oriented businesses, to revise the locational criteria for such businesses, to add a new land use review process to approve an adult-oriented business, to revise the definitions related to adult-oriented businesses.
- B. ADOPT the findings as contained in the staff report;
- C. ADOPT a Negative Declaration; and
- D. FILE the Notice of Determination.

### **ATTACHMENTS:**

1. [Proposed Ordinance](#)
2. [Adult-oriented Business Regulatory Permit Application](#)
3. [Summary of Land Use Studies](#)
4. [Available Sites Summary](#)

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5. [Initial Study](#)

**EXHIBITS:**

1. [List of Exhibits](#)

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# **ATTACHMENT 1**

## **Proposed Ordinance**

**Attachment #1****ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, REPEALING CHAPTER 13 OF DIVISION 1 OF TITLE 4; ADDING CHAPTERS 27, 28 AND 29 TO DIVISION 1 OF TITLE 4, OF THE SAN BERNARDINO COUNTY CODE RELATING TO ADULT-ORIENTED BUSINESSES, PERFORMERS AND NON-PERFORMERS LICENSING; AND AMENDING CHAPTER 84.02 OF DIVISION 4 OF TITLE 8 AND ADDING CHAPTER 85.20 TO DIVISION 5 OF TITLE 8, BOTH OF THE SAN BERNARDINO COUNTY CODE, RELATING TO ADULT-ORIENTED BUSINESSES DEVELOPMENT STANDARDS AND LAND USE PERMITTING.**

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of the County of San Bernardino finds that:

A. It is necessary and appropriate to repeal Chapter 13 and add Chapters 27, 28 and 29 to Division 1 of Title 4, amend Chapter 84.02 of Division 4 of Title 8, add Chapter 85.20 to Division 5 of Title 8 of the San Bernardino County Code ("County Code") to add, refine and update the provisions providing licensing and operational standards for adult businesses operating with the County of San Bernardino ("the County"). The public health, safety and welfare of the County and its residents require the enactment of this Ordinance and such operating standards for adult-oriented businesses in order to: (1) mitigate and reduce the judicially recognized potential adverse secondary effects of adult-oriented businesses, including but not limited to crime, the prevention of blight in neighborhoods and the increased threat of the spread of sexually transmitted diseases; (2) protect the quality of life and neighborhoods within the County, the County's retail and commercial trade, and local property values, and minimize the potential for nuisances related to the operation of adult-oriented

1 businesses; and (3) protect the peace, welfare and privacy of persons who own,  
2 operate and/or patronize adult-oriented businesses.

3 B. The Board of Supervisors finds that the revisions to the County Code  
4 implemented by this Ordinance are necessary in order to respond to recent  
5 developments within the regulation of adult uses and case law and in order to preserve  
6 the County from the potential adverse secondary effects of adult-oriented businesses,  
7 including crime, the protection of the County's retail trade, maintenance of property  
8 values, protecting and preserving the quality of the County's neighborhoods and the  
9 County's commercial districts, the protection of the quality of life for County residents,  
10 and the increased threat of the spread of sexually transmitted diseases and the  
11 protection of the peace, welfare and privacy of persons who patronize adult  
12 businesses based on the referenced studies. Specifically, the revisions and  
13 amendments to the County Code included in this Ordinance are essential and  
14 necessary to ensure the orderly implementation of adult use regulations within the  
15 County by amending and refining various permitting and operating provisions in the  
16 County Code to improve the County's regulation of adult-oriented businesses, and  
17 thereby ensure the immediate preservation of the public peace, health, safety and  
18 general welfare in the County of San Bernardino.

19 C. On , 2013, the Board of Supervisors held a public meeting  
20 during which it ~~considered the~~ adoption of this Ordinance pursuant to California  
21 Government Code § 36937 and applicable provisions of the County Code.

22 D. The Board of Supervisors, in adopting this Ordinance, takes legislative  
23 notice of the existence and content of the following studies concerning the adverse  
24 secondary side effects of Adult-oriented Businesses in other cities: Austin, Texas  
25 (1986); Indianapolis, Indiana (1984); Garden Grove, California (1991); Seattle,  
26 Washington (1989); Houston, Texas (1997); Phoenix, Arizona (1979); Tucson, Arizona  
27 (1990); Chattanooga, Tennessee (2003); Los Angeles, California (1977); Whittier,  
28 California (1978); Spokane, Washington (2001); St. Cloud, Minnesota (1994); Littleton,

1 Colorado (2004); Oklahoma City, Oklahoma (1986); Dallas, Texas (1997 and 2007);  
 2 Ft. Worth, Texas (2004); Kennedale, Texas (2005); Greensboro, North Carolina  
 3 (2003); Amarillo, Texas (1977); Cleveland, Ohio (1977); Newport News, Virginia  
 4 (1996); Jackson County, Missouri (2008); Louisville, Kentucky (2004); New York, New  
 5 York Times Square (1994); Beaumont Texas (1982); the Report of the Attorney  
 6 General's Working Group On The Regulation Of Adult-oriented Businesses (June 6,  
 7 1989, State of Minnesota); Dallas, Texas (2007); "Rural Hotspots: The Case of Adult  
 8 Businesses," 19 Criminal Justice Policy Review 153 (2008); "Correlates of Current  
 9 Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD,"  
 10 Journal of Urban Health (2011); "Stripclubs According to Strippers: Exposing  
 11 Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and  
 12 Justice Center for Prostitution Resources, Minneapolis, Minnesota; A Methodological  
 13 Critique of the Linz-Paul Report: A Report to the San Diego City Attorney's Office  
 14 (2003); Adult-oriented Businesses: An Insider's View – Testimony of David Sherman  
 15 before the Michigan House Committee on Ethics and Constitutional Law (2000);  
 16 Closin' Time: Effective Regulation of Adult Businesses' Hours of Operation, by Scott  
 17 Bergthold (2000); Summaries of Key Reports Concerning the Negative Secondary  
 18 Effects of Adult-oriented Businesses, by Louis Comus III (2001); Peep Show  
 19 Establishments, Police Activity, Public Place and Time: A Study of Secondary Effects  
 20 in San Diego, California, by Daniel Linz *et al.* (2006); and Do Peep-shows "Cause"  
 21 Crime? A response to Linz, Paul, and Yao, by Richard McCleary *et al.* (2006). The  
 22 Board of Supervisors finds that these studies are relevant to the problems addressed  
 23 by the County in enacting this ordinance to regulate the adverse secondary side  
 24 effects of adult-oriented businesses, and more specifically finds that these studies  
 25 provide convincing evidence that:

- 26 1. Adult-oriented businesses, are associated with a wide variety of  
 27 adverse secondary effects including, but not limited to, personal and property crimes,  
 28 prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit

1 drug use and drug trafficking, negative impacts on surrounding properties, urban blight,  
2 litter, traffic, noise, and sexual assault and exploitation.

3           2. The studies from other cities establish by convincing evidence that  
4 adult-oriented businesses that are not regulated with operating standards often have a  
5 deleterious effect on nearby businesses and residential areas, causing, among other  
6 adverse secondary effects, an increase in crime and a decrease in property values.  
7 Regulations for adult-oriented businesses should be developed to prevent deterioration  
8 and/or degradation of the vitality of the community before the problem exists, rather  
9 than waiting for problems to be created.

10           E. In developing this Ordinance, the Board of Supervisors is mindful of legal  
11 principles relating to regulation of adult-oriented businesses, and the Board of  
12 Supervisors does not intend to suppress or infringe upon any expressive activities  
13 protected by the First Amendment of the United States and California Constitutions but  
14 instead desires to enact reasonable time, place, and manner regulations that address  
15 the adverse secondary effects of adult-oriented businesses. The Board of Supervisors  
16 has considered:

17           1. Decisions of the United States Supreme Court regarding local  
18 regulation of adult-oriented businesses including, but not limited to: *City of Littleton,*  
19 *Colorado v. Z.J. Gifts D-4*, 541 U.S. 744, 124 S.Ct. 2219, 159 L.Ed.2d 84 (2004); *City*  
20 *of Los Angeles v. Alameda Books*, 535 U.S. 425, 122 S.Ct. 1728, 152 L.Ed.2d 670  
21 (2002); *City of Erie v. Pap's A.M. ("Kandyland")*, 529 U.S. 277, 120 S.Ct. 1382, 146  
22 L.Ed.2d 265 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115  
23 L.Ed.2d 504 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 110 S.Ct. 596, 107  
24 L.Ed.2d 603 (1990); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S.Ct.  
25 925, 89 L.Ed.2d 29 (1986); and *Young v. American Mini Theaters, Inc.*, 427 U.S. 50,  
26 96 S.Ct. 2440, 49 L.Ed.2d 310 (1976);

27           2. Decisions of the United States Court of Appeals for the Ninth  
28 Circuit, including but not limited to: *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th

1 Cir. 2005), amended 402 F.3d 875, *cert. denied* 126 S.Ct. 374; *Dream Palace v.*  
 2 *County of Maricopa*, 384 F.3d 990 (9th Cir. 2004); *World Wide Video. v. City of*  
 3 *Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Center for Fair Public Policy v. Maricopa*  
 4 *County*, 336 F.3d 1153 (9th Cir. 2003); *Diamond v. City of Taft*, 215 F.3d 1052 (9th Cir.  
 5 2000), *cert. denied* 531 U.S. 1072 (2001); *Isbell v. City of San Diego*, 258 F.3d 1108  
 6 (9th Cir. 2001); *Isbell v. City of San Diego*, 450 F.Supp.2d 1143 (S.D. Cal. 2006); *Tollis*  
 7 *Inc. v. County of San Diego*, 505 F.3d 935 (9th Cir. 2007); *Young v. City of Simi Valley*,  
 8 216 F.3d 807 (9th Cir. 2000), *cert. denied* 531 U.S. 1104 (2001); *Lim v. City of Long*  
 9 *Beach*, 217 F.3d 1050 (9th Cir. 2000), *cert. denied* 121 S.Ct. 1189 (2001); *Baby Tam*  
 10 *& Co., Inc. v. City of Las Vegas ("Baby Tam I")*, 154 F.3d 1097 (9th Cir. 1998); *Baby*  
 11 *Tam & Co., Inc. v. City of Las Vegas ("Baby Tam II")*, 199 F.3d 1111 (9th Cir. 2000);  
 12 *Baby Tam & Co., Inc. v. City of Las Vegas ("Baby Tam III")*, 247 F.3d 1003 (9th Cir.  
 13 2001); *4805 Convoy, Inc. v. City of San Diego*, 183 F.3d 1108 (9th Cir. 1999);  
 14 *Topanga Press, Inc. v. City of Los Angeles*, 989 F.2d 1524 (9th Cir. 1993), *cert. denied*  
 15 511 U.S. 1030 (1994); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986);  
 16 *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998), *cert. denied* 529 U.S. 1053  
 17 (2000); and *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996);

18         3. The Board of Supervisors has also considered and takes  
 19 legislative notice of decisions of State of California courts addressing adult-oriented  
 20 businesses including: *Madain v. City of Stanton*, 185 Cal.App.4th 1277 (2010); *Krontz*  
 21 *v. City of San Diego*, 136 Cal.App.4th 1126 (2006); *Lacy Street Hospitality Service,*  
 22 *Inc. v. City of Los Angeles*, 125 Cal.App.4th 526 (2004); *Department of Alcoholic*  
 23 *Beverage Control v. Alcoholic Beverage Control Appeals Board and Renee Vicary,*  
 24 *Real Party in Interest*, 99 Cal.App.4th 880 (2002); *Tily B., Inc. v. City of Newport*  
 25 *Beach*, 69 Cal.App.4th 1 (1998); *Sundance Saloon, Inc. v. City of San Diego*, 213  
 26 Cal.App.3d 807 (1989); *7978 Corporation v. Pitchess*, 41 Cal.App.3d 42 (1974);  
 27 *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal.App.3d 980 (1985);  
 28 *E.W.A.P., Inc. v. City of Los Angeles*, 56 Cal.App.4th 310 (1997); *City of Vallejo v.*

1 *Adult Books*, 167 Cal.App.3d 1169 (1985), *cert. denied* 475 U.S. 1064 (1986); *City of*  
 2 *National City v. Wiener*, 3 Cal.4th 832 (1992), *cert. denied* 510 U.S. 824; and *People v.*  
 3 *Superior Court (Lucero)*, 49 Cal.3d 14 (1989).

4           4. Other federal cases, including but not limited to: *Doctor John's,*  
 5 *Inc. v. City of Roy*, 465 F.3d 1150 (10th Cir. 2006); *G.M. Enterprises v. Town of St.*  
 6 *Joseph*, 350 F.3d 631 (7th Cir. 2003); *SOB, Inc. v. County of Benton*, 317 F.3d 856  
 7 (8th Cir. 2003); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Richland*  
 8 *Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Tee & Bee v. City of West*  
 9 *Allis*, 936 F.Supp. 1479 (E.D. Wis. 1996); *National Amusements, Inc. v. Town of*  
 10 *Dedham*, 43 F.3d 731 (1st Cir. 1995); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248  
 11 (5th Cir. 1995); *TK's Video, Inc. v. Denton County, Tex.*, 24 F.3d 705 (5th Cir. Tex.  
 12 1994); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993);  
 13 *Lakeland Lounge v. City of Jacksonville*, 973 F.2d 1255 (5th Cir. 1992), *cert. denied*  
 14 507 U.S. 1030 (1993); *International Eateries v. Broward County*, 941 F.2d 1157 (11th  
 15 Cir. 1991), *cert. denied* 503 U.S. 920 (1992); *Star Satellite, Inc. v. City of Biloxi*, 779  
 16 F.2d 1074 (5th Cir. 1986); *N.W. Enterprises, Inc. v. City of Houston*, 372 F.3d 333 (5th  
 17 Cir. 2004); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403, 1997 FED App. 0066P (6th  
 18 Cir. 1997); and *N.W. Enterprises, Inc. v. City of Houston*, 352 F.3d 162 (5th Cir. 2003).

19       F. Each of the foregoing negative secondary effects constitutes a harm  
 20 which the County has a substantial government interest in preventing and/or abating.  
 21 This substantial government interest in preventing secondary effects, which is the  
 22 County's rationale for this Ordinance, exists independent of any comparative analysis  
 23 between adult-oriented and non-adult-oriented businesses. Additionally, the County's  
 24 interest in regulating adult-oriented businesses extends to preventing future secondary  
 25 effects of either current or future adult-oriented businesses that may locate in the  
 26 unincorporated portions of the County. The County finds that the cases and  
 27 documentation relied on in this Ordinance are reasonably believed to be relevant to  
 28 said secondary effects.

1           G.     Locational criteria are a legitimate and reasonable means of ensuring  
2 that adult businesses are conducted in a manner so as to minimize their adverse  
3 secondary effects and to thereby protect the health, safety, and welfare of the County's  
4 residents, protect citizens from increased crime, preserve the quality of life, preserve  
5 property values and the character of surrounding neighborhoods and businesses, and  
6 deter the spread of urban blight. The locational requirements contained in this  
7 ordinance do not unreasonably restrict the establishment or operation of  
8 constitutionally protected adult businesses in the unincorporated County and a  
9 sufficient and reasonable number of alternative locations for adult businesses are  
10 provided by this Ordinance. The Board of Supervisors takes legislative notice of the  
11 United States Supreme Court decision in *Renton* that requires the that adult  
12 businesses be provided a reasonable opportunity to open and operate. The Board of  
13 Supervisors also takes legislative notice of the Ninth Circuit's decisions in *Topanga*  
14 *Press*, *Lim* and *Isbell* with respect to availability of sites for adult businesses and finds  
15 that under the distance and locational restrictions imposed by this ordinance there are  
16 sufficient sites available for adult businesses within the unincorporated County.

17           H.     The Board of Supervisors also finds that locational criteria alone do not  
18 adequately protect the health, safety, and general welfare of the citizens of the County,  
19 and thus certain requirements with respect to the ownership, operation and licensing of  
20 adult-oriented businesses are in the public interest. In addition to the findings and  
21 studies conducted in other cities regarding increases in crime rates, decreases in  
22 property values and the blighting of areas in which such businesses are located, the  
23 Board of Supervisors takes legislative notice of the following: (1) the facts recited in  
24 the case of *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986), regarding how  
25 live adult entertainment results in secondary effects such as prostitution, drug dealing,  
26 and other law enforcement problems, and (2) the facts and holding of the case of  
27 *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875,  
28 *cert. denied* 126 S.Ct. 374, wherein the Ninth Circuit recognized that off stage

1 performances by performers who also perform nude and/or semi-nude at an adult-  
2 oriented establishment can cause the same secondary effects as other activities  
3 documented in studies and case law regarding adult-oriented establishments, even if  
4 the performer is clothed and the establishment does not serve alcohol.

5 I. Relying on the following, the County finds that adult-oriented businesses  
6 in its community may lead to detrimental secondary effects including prostitution and  
7 engagement in unlawful sexual activity. The County bases this conclusion on the  
8 experiences of the County, as well as that of other California communities and cities,  
9 such as La Habra and Arcadia, which the County has a reasonable basis to believe  
10 reflect the experiences of its own communities, including numerous police reports and  
11 affidavits from those communities, and judicial decisions in the public record:

12 1. Evidence indicates that some dancers, models, entertainers,  
13 performers, ad other persons who publicly perform specified sexual activities or  
14 publicly display specified anatomical areas in adult-oriented businesses (collectively  
15 referred to as “performers”) have been found to engage in sexual activities with  
16 patrons of adult-oriented businesses on the site of the adult-oriented business.

17 2. Evidence has demonstrated that performers employed by adult-  
18 oriented businesses have been found to offer and provide private shows to patrons  
19 who, for a price, are permitted to observe and participate with the performers in live  
20 sex shows.

21 3. Evidence indicates that performers at adult-oriented businesses  
22 have been found to engage in acts of prostitution with patrons of the establishment.

23 4. Evidence indicates that fully enclosed booths, individual viewing  
24 areas, and other small rooms whose interiors cannot be seen from public areas of the  
25 establishment regularly have been found to be used as locations for engaging in  
26 unlawful sexual activity.

27 5. As a result of the above, and the increase in incidents of HIV,  
28 AIDS, and hepatitis B, which are sexually transmitted or blood borne diseases, the

1 County has a substantial interest in adopting regulations that will reduce the possibility  
2 for the occurrence of prostitution and unlawful sex acts at adult-oriented businesses in  
3 order to protect the health, safety, and well-being of its citizens. The County finds this  
4 is relevant to the County and the need to regulate the secondary effects of adult-  
5 oriented businesses within the County unincorporated area.

6           6. The public health, safety, welfare, and morals of all persons in the  
7 County must be protected by the establishment of standards to diminish the possibility  
8 of infection of contagious diseases.

9           J. The Board of Supervisors is cognizant of the specific danger from sexually  
10 transmitted diseases including AIDS, which is currently irreversible and fatal, and the  
11 spread of other sexually transmitted diseases such as syphilis, gonorrhea and  
12 chlamydia. The Board of Supervisors takes legislative notice of the Reported  
13 Communicable Diseases 2006 prepared by the Department of Public Health, San  
14 Bernardino County ("SB Communicable Diseases Report"). According to the SB  
15 Communicable Diseases Report, San Bernardino County had 157 reported cases of  
16 AIDS: 7.8 cases per 100,000 population. The SB Communicable Diseases Report also  
17 reported 8,063 cases of chlamydia (407 cases per 100,000 population); 2,114 cases of  
18 gonorrhea (106.8 cases per 100,000 population) and 144 cases of syphilis (7.1 cases  
19 per 100,000 population).

20           K. The Board of Supervisors takes further legislative notice of the  
21 Communicable Disease Report 2011 prepared by the Department of Public Health,  
22 County of Riverside ("Riverside Communicable Disease Report"). According to the  
23 Riverside Communicable Disease Report, chlamydia is the most commonly reported  
24 communicable disease in Riverside County with 8,641 cases reported, a 34% increase  
25 in incidence compared to 2010. The Riverside Communicable Disease Report  
26 indicates that gonorrhea is the third most frequently reported infectious disease in  
27 Riverside County with 891 cases reported and an increase rate of 38.7 cases per  
28 100,000 population. As reported by the Riverside Communicable Disease Report,

1 there were 58 newly diagnosed AIDS cases and 104 newly diagnosed HIV cases in  
2 Riverside County. In 2011, prevalence rates for persons living with HIV and AIDS were  
3 66.1 and 141.1 cases per 100,000 population. During 2011, a total of 1,521 persons  
4 were living with HIV and 3,247 persons living with AIDS in Riverside County.

5 L. Legislative notice is further taken by the Board of Supervisors of the  
6 Epidemiology of HIV/AIDS in Riverside County, 2012 prepared by the Department of  
7 Public Health of the County of Riverside. The AIDS Surveillance Summary in the  
8 Epidemiology Report indicates that Riverside County has 6,147 cumulative cases with  
9 3,374 living cases. According to the Riverside County HIV Program handout, the first  
10 reported case of AIDS in Riverside County was in 1983 and since that time over 6,000  
11 cases of AIDS have been reported. Riverside County has the fifth highest number of  
12 HIV cases and the sixth highest number of AIDS cases in any county in California.

13 M. The Board of Supervisors takes further legislative notice of the HIV/AIDS  
14 Epidemiology Report 2010 ("HIV/AIDS Epidemiology Report") prepared by the Public  
15 Health Services division of the County of San Diego Health and Human Services  
16 Agency. According to the HIV/AIDS Epidemiology Report, 14,228 AIDS cases were  
17 reported throughout San Diego County since 1981 through December 2009, 328 of  
18 which were reported in 2009. The HIV/AIDS Epidemiology Report also indicates that  
19 San Diego County has the third highest number of AIDS cases in the State of  
20 California. The County also takes legislative notice of the County of Orange  
21 Communicable Disease Summary 2000, County of Orange Health Care Agency,  
22 issued July 2002 ("Communicable Disease Summary") and the HIV/AIDS Surveillance  
23 Statistics, 2003 also issued by the County of Orange Health Care Agency in October  
24 2004 ("HIV/AIDS Surveillance Study"). The HIV/AIDS Surveillance Study reports that  
25 6,429 cases of AIDS were reported in Orange County between 1981 and 2003. Of  
26 those, 237 were reported in 2003 and 162 were also diagnosed in 2003. The  
27 HIV/AIDS Surveillance Study further indicates that according to the latest available  
28 data (as of December 2001), Orange County has reported more AIDS cases than 25

1 U.S. states and ranks 28th in number of AIDS cases reported among the 101  
2 metropolitan areas recognized by the Centers for Disease Control and Prevention with  
3 500,000 or more population.

4 N. The Board of Supervisors has a reasonable basis to conclude that the  
5 experiences of Riverside, San Diego and Orange Counties as to these HIV/AIDS and  
6 STD or blood borne diseases are relevant to the experiences of the County of San  
7 Bernardino.

8 O. In considering appropriate operational regulations for adult-oriented  
9 businesses, the Board of Supervisors finds that:

10 1. Enclosed or concealed booths and dimly lit areas within adult-  
11 oriented businesses greatly increase the potential for misuse of the premises, including  
12 unlawful conduct of a type which facilitates transmission of disease. Requiring all  
13 indoor areas to be open to view by management at all times and adequate lighting to  
14 be provided reduces the opportunity for, and therefore the incidence of illegal conduct  
15 within adult-oriented businesses, and further facilitates the inspection of the interior of  
16 the premises thereof by law enforcement personnel.

17 2. Preventing the exchange of money between performers and  
18 patrons also reduces the likelihood of drug and sex transactions occurring in adult-  
19 oriented businesses.

20 3. Requiring separations between performers and patrons precludes  
21 them from being within earshot to communicate and thereby reduces the likelihood  
22 that such persons will negotiate narcotics sales and/or transact sexual favors within the  
23 adult-oriented business.

24 P. The Board of Supervisors recognizes and relies on the findings set forth  
25 in the 1986 Attorney General's Report on Pornography in support of this ordinance  
26 including, but not limited to, its recommendations that local governments ban certain  
27 features of video booths that facilitate carnal sexual encounters. A copy of the  
28

1 Attorney General's Report on Pornography is available for public review at the Clerk of  
2 the Board's office.

3           1. With respect to booths, these findings include the following: The  
4 inside walls of the booth are typically covered with graffiti and messages, usually of a  
5 sexual nature and consisting of telephone numbers, names, requests and offers for  
6 sex acts, anatomical descriptions, and sketches. Some booths also contain a chart  
7 used as an appointment schedule that is utilized to schedule appointments for sex acts  
8 that take place in that particular booth. In some instances, this arrangement has been  
9 used for the solicitation of prostitutes. Many of these booths are equipped with a hole  
10 in the side wall between the booths to allow patrons to engage in anonymous sex  
11 including both oral and anal sex acts. Inside the booths, the floors and walls are often  
12 wet and sticky with liquid or viscous substances, including semen, urine, feces, used  
13 prophylactics, gels, saliva, or alcoholic beverages. The County concludes, based in  
14 part on the description of the illicit sexual activity as noted within the Attorney  
15 General's Report, that the presence of closed doors and/or any obstruction of the  
16 video booth area is likely to lead to the above described secondary effects.

17           2. Likewise, the Board of Supervisors recognizes and relies on the  
18 findings set forth in the May 1990 study conducted by the City of Tucson in support of  
19 this ordinance including, but not limited to, the following findings with respect to booths:  
20 Holes were present in the walls of adjoining booths within adult-oriented entertainment  
21 establishments. These holes were used by male patrons to facilitate sex acts with the  
22 occupant of the neighboring booth. The Board of Supervisors reasonably believes that  
23 the Tucson experience, along with the Attorney General's Report, is relevant to the  
24 problems associated with adult-oriented facilities in the County.

25           3. The Board of Supervisors finds that requiring that booths in adult-  
26 oriented establishments be configured in such a manner so that there is an  
27 unobstructed view from the manager's station(s) and prohibiting closed, concealed, or  
28 unobstructed booths that are occupied by no more than one person at a time reduces

1 the secondary effects associated with closed booths. Specifically, the provisions  
2 pertaining to booths are necessary to eliminate the masturbation and sexual activity  
3 that are known to occur in closed booths and which present significant health and  
4 safety concerns with respect to communicable diseases, including AIDS. A number of  
5 courts have held that combating the spread of AIDS and STDs is a significant  
6 government interest, and that prohibiting concealed or enclosed booths in an adult-  
7 oriented establishment is a narrowly tailored means of serving that interest. *Deluxe*  
8 *Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal.App.3d 980 (1985);  
9 *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988 (7th Cir. 2002); *Mitchell v.*  
10 *Commission on Adult Entertainment Establishments*, 10 F.3d 123 (3rd Cir. 1993);  
11 *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Doe v. City of*  
12 *Minneapolis*, 898 F.2d 612 (8th Cir. 1990); *Wall Distributors, Inc. v. City of Newport*  
13 *News*, 782 F.2d 1165 (4th Cir. 1986). The Board of Supervisors takes further note of  
14 the Ninth Circuit's decision in *Ellwest Stereo Theatres, Inc. v. Wenner*, 681 F.2d 1243  
15 (9th Cir. 1982) and its finding that there is no constitutional right to unobserved  
16 masturbation in a public place. The Board of Supervisors also recognizes the  
17 California case *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal.App.3d  
18 980 (1985), which found that the right to privacy guaranteed by the California  
19 Constitution does not protect the right to unobserved masturbation in a public place.  
20 Further, the County takes note of the Eleventh Circuit's validation of a restriction on the  
21 size of booths in *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir.  
22 1999), including the Court's finding that "[a]mple evidence ... supports the ... finding  
23 that illegal and unhealthy activities take place in small rooms at adult entertainment  
24 establishments."

25 Q. In recognition of the negative secondary effects generated by live adult-  
26 oriented entertainment, a number of courts have upheld distance limitations between  
27 performers and patrons, prohibitions against physical contact between performers and  
28 patrons, and precluded direct exchange of monies between performers and patrons at

1 adult-oriented businesses that provide live entertainment including, but not limited to:  
2 *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875,  
3 *cert. denied* 126 S.Ct. 374; *Tily B. v. City of Newport Beach*, 69 Cal.App.4th 1 (1999);  
4 *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998); *BSA, Inc. v. King County*, 804  
5 F.2d 1104 (9th Cir. 1986); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986);  
6 *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Parker v. Whitfield*  
7 *County*, 463 S.E.2d 116 (Ga. 1995); and *Hang On, Inc. v. City of Arlington*, 65 F.3d  
8 1248 (5th Cir. 1995). Courts have found that dancers who perform nude or semi-nude  
9 on stage at adult-oriented cabarets are the same individuals who then move off stage  
10 to offer lap dances, couch dances, or other similar off stage performances. *Gammoh*  
11 *v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005). Therefore, the County reasonably  
12 believes it is necessary to impose distance limitations between performers and patrons  
13 and prohibit physical contact between performers and patrons during all performances,  
14 whether on or off stage, in order to guard against the documented secondary effects.

15 R. The Board of Supervisors believes that prohibiting physical contact  
16 between performers and patrons at adult-oriented businesses, requiring separate  
17 entrances for performers from those used for patrons, requiring separate restrooms for  
18 opposite sexes, prohibiting performers from soliciting payment from patrons, and  
19 prohibiting the direct payment to performers by patrons are a reasonable and effective  
20 means of addressing the legitimate governmental interests of preventing prostitution,  
21 the spread of sexually transmitted diseases, and drug transactions. The case law and  
22 studies serve as a reasonable basis to establish this link.

23 S. In recognition of the negative secondary effects generated by live adult-  
24 oriented entertainment establishments, a number of courts have upheld ordinances  
25 which require that employees, as well as the owners and managers of such  
26 establishments submit background information on criminal convictions related to  
27 relatively recent sexual offenses so that a public entity can assess an individual's  
28 ability to function responsibly in the adult-oriented business setting. See *TK's Video*,

1 *Inc. v. Denton County, Tex.*, 24 F.3d 705, 710 (5th Cir. 1994); and see *Club Southern*  
 2 *Burlesque, Inc. v. City of Carrollton*, 265 Ga. 528, 532, 457 S.E.2d 816 (1995). This  
 3 includes not only the applicant for an adult-oriented business license or permit, but  
 4 individuals who work in adult-oriented businesses during regular business hours as  
 5 performers and non-performers where the criminal background check is limited to a  
 6 period of no more than five (5) years immediately preceding the date of application.  
 7 See *Doctor John's, Inc. v. City of Roy*, 465 F.3d 1150, 1171 (10th Cir. 2006);  
 8 *McCrothers Corp. d/b/a Tree City Bar, et al. v. City of Madan*, 728 N.W.2d 124 (2007);  
 9 *Tee & Bee v. City of West Allis*, 936 F.Supp. 1479, 1487 (E.D. Wis. 1996); *Club*  
 10 *Southern Burlesque, Inc.*, 265 Ga. at 532. In this regard, the Board of Supervisors, in  
 11 adopting operational standards, recognizes that the requirement for employee  
 12 disclosure of recent criminal activity is narrowly tailored and imposes no greater  
 13 restriction on First Amendment freedoms than is necessary to minimize the secondary  
 14 harms stated in the ordinance. See *TK's Video v. Denton County*, 830 F.Supp. 335,  
 15 343 (E.D. Tex. 1993), vac'd in part on other grounds, 24 F.3d 705 (5th Cir. 1994).  
 16 When, as here, the civil disability provision of an adult-oriented business ordinance is  
 17 tailored to apply to sex-related crimes only, the "relationship between the offense and  
 18 the evil to be regulated is direct and substantial." *FW/PBS, Inc. v. City of Dallas*, 837  
 19 F.2d 1298, 1305 (5th Cir. 1988) and affirmed in part and vacated in part in *FW/PBS,*  
 20 *Inc. v. City of Dallas*, 493 U.S. 215 (1990); see also *TK's Video*, 24 F.3d at 711 and  
 21 see *Déjà Vu of Nashville, Inc. v. Metro Gov't of Nashville and Davidson County*, 274  
 22 F.3d at 392 (6th Cir. 2001); *Brownell v. City of Rochester*, 190 F. Supp.2d 472, 494-96  
 23 (W.D.N.Y. 2001); *Tee & Bee*, 936 F.Supp. at 1490. The County adopts the reasoning  
 24 of courts finding that "[c]ertain employees of unregulated adult-oriented businesses . . .  
 25 engage in higher incidence of certain types of illicit sexual behavior than employees of  
 26 other establishments" and has a reasonable basis to believe this reasoning is  
 27 applicable in the unincorporated portions of the County. Further, the "fact that an  
 28 applicant for an adult-oriented use permit has been convicted of a sexually related

1 crime leads to the rational assumption that the applicant may engage in that conduct in  
2 contravention of this ordinance.” Hence, “[t]he barring of such individuals from  
3 employment in adult-oriented businesses for a specified period of years serves to  
4 prevent distribution of illegal material, to prevent conduct which leads to the  
5 transmission of sexually transmitted diseases, and to preclude the establishment of  
6 criminal enterprises within the City.” *Doctor John’s*, 465 F.3d at 1171 n. 30.

7 T. The Board of Supervisors also finds the establishment of an adult-  
8 oriented Business Regulatory Licensing process and operational standards for adult-  
9 oriented businesses are legitimate and reasonable means of ensuring that:

- 10 1. Operators of and performers at adult-oriented businesses comply  
11 with the County’s regulations;
- 12 2. The recognized adverse secondary impacts of a proposed adult-  
13 oriented business are mitigated;
- 14 3. Adult-oriented business operators have specific guidelines with  
15 respect to the manner in which they can operate an adult-oriented business; and
- 16 4. The applications for Adult-oriented Business Regulatory Permits  
17 are handled fairly and expeditiously.

18 U. The Board of Supervisors recognizes the possible harmful effects on  
19 children and minors exposed to the effects of adult-oriented businesses and  
20 recognizes the need to enact regulations which will minimize and/or eliminate such  
21 exposure. The Board of Supervisors takes legislative notice of the Penal Code  
22 provisions authorizing local governments to regulate matter that is harmful to minors  
23 (*i.e.*, Penal Code § 313 *et seq.*). The Board of Supervisors further takes legislative  
24 notice of the cases that recognize that protection of minors from sexually explicit  
25 materials is a compelling government interest, including *Crawford v. Lungren*, 96 F.3d  
26 380 (9th Cir. 1996), *cert. denied* 520 U.S. 1117 (1997) and *Berry v. City of Santa*  
27 *Barbara*, 40 Cal.App.4th 1075 (1995).

1 V.While the Board of Supervisors is obligated to protect the rights  
2 conferred by the United States Constitution to adult-oriented businesses, it does so in  
3 a manner that ensures the continued and orderly use and development of property  
4 within the County and diminishes, to the greatest extent feasible, those undesirable  
5 adverse secondary effects which the above mentioned studies have shown to be  
6 associated with the operation of adult-oriented businesses.

7 W. Licensing permits, locational restrictions and operating standards are a  
8 legitimate and reasonable means of ensuring that adult-oriented businesses are  
9 conducted in a manner so as to minimize their adverse secondary effects and to help  
10 assure that such operators, businesses, licensees and permittees comply with  
11 reasonable regulations related to such requirements to minimize and control problems  
12 associated with such businesses and thereby protect the health, safety, and welfare of  
13 San Bernardino residents, protect citizens from increased crime, preserve the quality  
14 of life, and preserve the character of surrounding neighborhoods and businesses, and  
15 deter the spread of urban blight. The zoning and operational requirements contained  
16 in this ordinance do not unreasonably restrict the establishment or operation of  
17 constitutionally protected adult-oriented businesses in the County.

18 X. The Board of Supervisors, in adopting operational standards, recognizes  
19 that these standards do not preclude reasonable alternative avenues of  
20 communication. For example, the closing hours requirement means that adult-oriented  
21 businesses are free to operate seven (7) days a week for twenty (20) hours per day.  
22 The Board of Supervisors takes note of the proliferation of adult-oriented material on  
23 the Internet, satellite television, direct television, CDs, DVDs, and that these various  
24 media provide alternative avenues of communication. Additionally, the Board of  
25 Supervisors takes note that numerous web-based services, such as  
26 [www.sugardvd.com](http://www.sugardvd.com) and [www.wantedlist.com](http://www.wantedlist.com), deliver adult videos and DVDs directly to  
27 customers' homes via the mail. The Board of Supervisors recognizes the following  
28 review of one of these web-based services: "SugarDVD has made it so easy to rent

1 and view adult movies, you may never leave your house again ... SugarDVD is  
2 discreet with quick turnaround times and a massive selection ... SugarDVD offers six  
3 rental plans, catering to the casual porn viewer and diehards who can never get  
4 enough hard-core fare.” *Hustler Magazine*, January 2006. The Board of Supervisors  
5 also considers and relies on published decisions examining the proliferation of  
6 communications on the Internet. *Reno v. American Civil Liberties Union*, 521 U.S. 844  
7 (1997) [the principle channel through which many Americans now transmit and receive  
8 sexually explicit communication is the Internet]; *Anheuser-Busch v. Schmoke*, 101  
9 F.3d 325 (4th Cir. 1996), *cert. denied* 520 U.S. 1204 (1997) [the Fourth Circuit rejected  
10 a First Amendment challenge to a Baltimore ordinance restricting alcohol  
11 advertisements on billboards acknowledging that the Internet is one available channel  
12 of communication]; *U.S. v. Hockings*, 129 F.3d 1069 (9th Cir. 1997); *see also U.S. v.*  
13 *Thomas*, 74 F.3d 701 (6th Cir. 1996), *cert. denied* 519 U.S. 820 [recognizing the  
14 Internet as a medium for transmission of sexually explicit material in the context of  
15 obscenity prosecutions]. The Internet brings with it a virtually unlimited additional  
16 source of adult-oriented sexual materials available to interested persons in every  
17 community with a mere keystroke. An adult-oriented business no longer has to be  
18 “actually” physically located in a city to be available in the community.

19 Y. The Board of Supervisors recognizes that adult devices (*i.e.* adult  
20 novelties and/or adult related products) such as dildos, fur-lined handcuffs, leather  
21 whips, anal beads, and devices that are physical representations of human genital  
22 organs, are not speech and enjoy no First Amendment protections. *See Ford v. State*  
23 *of Texas*, 753 S.W.2d 451, 452-453 (1988); *Sewell v. State of Georgia*, 233 S.E.2d  
24 187, 188-189 (1977); *Chamblee Visuals, LLC v. City of Chamblee*, 506 S.E.2d 113,  
25 115 (1998); and *Red Bluff Drive-In, Inc. v. Vance*, 648 F.2d 1020 (5th Cir. 1981).

26 Z. The Board of Supervisors has also determined that a closing hours  
27 requirement promotes the reduction of deleterious secondary effects from adult-  
28 oriented facilities and reasonably relies on prior court decisions on the need for closing

1 hours, including *Center for Fair Public Policy v. Maricopa County* (“*Maricopa*”), 336  
2 F.3d 1153 (9th Cir. 2003); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999);  
3 *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Lady J.*  
4 *Lingerie, Inc. v. City of Jacksonville*, 973 F.Supp. 1428 (M.D. Fla. 1997); *Richland*  
5 *Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *National Amusements Inc. v.*  
6 *Town of Dedham*, 43 F.3d 731 (1st Cir. 1995); *Mitchell v. Comm’n on Adult Enter. Est.*  
7 *of the State of Delaware*, 10 F.3d 123 (3rd Cir. 1993); *Star Satellite, Inc. v. City of*  
8 *Biloxi*, 779 F.2d 1074 (5th Cir. 1986); and *City of Colorado Springs v. 2354 Inc.*, 896  
9 P.2d 272 (1995). The Board of Supervisors also takes legislative notice of (a) the  
10 Report of the Attorney General’s Working Group on the Regulation of Adult-oriented  
11 Businesses, Minnesota (1989), which concluded that surrounding communities are  
12 negatively impacted by 24-hour-a-day or late night operation of adult-oriented  
13 businesses; and (b) the analysis presented by Scott Bergthold in his report, *Closin’*  
14 *Time: Effective Regulation of Adult Businesses’ Hours of Operation* (2000).  
15 Additionally, the Board of Supervisors takes legislative notice of *Peep Show*  
16 *Establishments, Police Activity, Public Place and Time: A Study of Secondary Effects*  
17 *in San Diego, California*, by Daniel Linz *et al.* (2004) and *Do Peep-shows “Cause”*  
18 *Crime? A response to Linz, Paul, and Yao*, by Richard McCleary *et al.* (2006). Based  
19 on these cases, reports and analyses, as well as the findings of this ordinance, the  
20 Board of Supervisors has a reasonable basis to believe and does conclude that the  
21 hours of operation provision is necessary in light of the fact that adult-oriented  
22 businesses have been found to accompany and aggravate crime and to deplete police  
23 time and resources in the late night and early morning hours.

24 AA. It is not the intent of the Board of Supervisors of the County of San  
25 Bernardino in enacting this ordinance or any provision thereof to condone or legitimize  
26 the distribution of obscene material, and the County and its Board recognize that state  
27 law prohibits the distribution of obscene materials and expect and encourage law  
28

1 enforcement officials to enforce state obscenity statutes against such illegal activities  
2 in the County.

3 BB. The Board of Supervisors does not intend to regulate in any area  
4 preempted by California law including, but not limited to, regulation of obscene speech,  
5 nor is it the intent of the Board of Supervisors to preempt regulations of the state  
6 Alcoholic Beverage Control Department ("ABC").

7 CC. Nothing in this ordinance is intended to authorize, legalize, or permit the  
8 establishment, operation, or maintenance of any business, building, or use which  
9 violates any other County ordinance in any respect, or any statute of the State of  
10 California regarding public nuisances, unlawful or indecent exposure, sexual conduct,  
11 lewdness, obscene or harmful matter, or the exhibition or public display thereof.

12 DD. The Board of Supervisors finds that licensing and operational standards  
13 are a legitimate and reasonable means of accountability to ensure that operators and  
14 performers and non-performers employed at adult-oriented facilities comply with  
15 reasonable regulations and to ensure that operators do not knowingly allow their  
16 establishments to be used as places of illegal sexual activity or solicitation.

17 EE. The licensing and operation provisions adopted herein are necessary in  
18 order to protect the public health, safety and welfare by providing a mechanism to  
19 address the adverse secondary effects associated with the establishment and  
20 operation of unregulated or under-regulated adult-oriented businesses.

21 SECTION 2. Subsection 810.01.030(l) of the San Bernardino County Code is  
22 amended to read:

23 **810.01.030 Definitions**

24 In addition to any other definitions contained in the Development Code,  
25 the following words and phrases shall, for the purpose of this Title, be defined as  
26 follows, unless it is clearly apparent from the context that another meaning is intended.  
27 Should any of the definitions be in conflict with any current provisions of the  
28 Development Code, these definitions shall prevail.

1 A. "Adult arcade" shall mean a business establishment to which the public is  
2 permitted or invited and where coin, card or slug operated or electronically, electrically  
3 or mechanically controlled devices, still or motion picture machines, projectors, videos,  
4 holograms, virtual reality devices or other image producing devices are maintained to  
5 show images on a regular or substantial basis, where the images so displayed are  
6 distinguished or characterized by an emphasis on matter depicting or describing  
7 "specified sexual activities" or "specified anatomical areas." Such devices shall be  
8 referred to as "adult arcade devices."

9 B. "Adult retail store" shall mean a business establishment having as a  
10 regular and substantial portion of its stock in trade, "adult oriented material."

11 C. "Adult booth/individual viewing area" shall mean a partitioned or partially  
12 enclosed portion of an adult business used for any of the following purposes:

13 1. Where a live or taped performance is presented or viewed, where  
14 the performances and/or images displayed or presented are distinguished or  
15 characterized by their emphasis on matter depicting, describing, or relating to  
16 "specified sexual activities" or "specified anatomical areas;" or

17 2. Where "adult arcade devices" are located.

18 D. "Adult business" shall mean:

19 1. A business establishment or concern that as a regular and  
20 substantial course of conduct operates as an adult retail store, adult motion picture  
21 theater, adult arcade, adult cabaret, adult motel or hotel, adult modeling studio; or

22 2. A business establishment or concern which as a regular and  
23 substantial course of conduct offers, sells or distributes "adult oriented material" or  
24 "sexually oriented merchandise," or which offers to its patrons materials, products,  
25 merchandise, services or entertainment characterized by an emphasis on matters  
26 depicting, describing, or relating to "specified sexual activities" or "specified anatomical  
27 areas" but not including those uses or activities which are preempted by state law.  
28

1 E. "Adult cabaret" shall mean a business establishment (whether or not  
2 serving alcoholic beverages) that features "adult live entertainment."

3 F. "Adult cabaret dancer" shall mean any person who is an employee or  
4 independent contractor of an "adult cabaret" or "adult business" and who, with or  
5 without any compensation or other form of consideration, performs as a sexually  
6 oriented dancer, exotic dancer, stripper, go go dancer or similar dancer whose  
7 performance on a regular and substantial basis focuses on or emphasizes the adult  
8 cabaret dancer's breasts, genitals, and/or buttocks, but does not involve exposure of  
9 "specified anatomical areas" or depicting or engaging in "specified sexual activities."

10 "Adult cabaret dancer" does not include a patron.

11 G. "Adult hotel/motel" shall mean a "hotel" or "motel" (as defined in the  
12 County Code) that is used for presenting on a regular and substantial basis images  
13 through closed circuit television, cable television, still or motion picture machines,  
14 projectors, videos, holograms, virtual reality devices or other image producing devices  
15 that are distinguished or characterized by the emphasis on matter depicting or  
16 describing or relating to "specified sexual activities" or "specified anatomical areas."

17 H. "Adult live entertainment" shall mean any physical human body activity,  
18 whether performed or engaged in, alone or with other persons including, but not limited  
19 to, singing, walking, speaking, dancing, acting, posing, simulating, wrestling or  
20 pantomiming, in which: (1) the performer (including, but not limited to, topless and/or  
21 bottomless dancers, go go dancers, exotic dancers, strippers, or similar performers)  
22 exposes to public view, without opaque covering, "specified anatomical areas;" and/or  
23 (2) the performance or physical human body activity depicts, describes, or relates to  
24 "specified sexual activities" whether or not the specified anatomical areas are covered.

25 I. "Adult modeling studio" shall mean a business establishment which  
26 provides for any form of consideration, the services of a live human model, who, for  
27 the purposes of sexual stimulation of patrons, displays "specified anatomical areas" to  
28 be observed, sketched, photographed, filmed, painted, sculpted, or otherwise depicted

1 by persons paying for such services. "Adult modeling studio" does not include schools  
2 maintained pursuant to standards set by the Board of Education of the State of  
3 California.

4 J. "Adult motion picture theater" shall mean a business establishment, with  
5 or without a stage or proscenium, where, on a regular and substantial basis and for  
6 any form of consideration, material is presented through films, motion pictures, video  
7 cassettes, slides, laser disks, digital video disks, holograms, virtual reality devices, or  
8 similar electronically generated reproductions that is characterized by the depiction or  
9 description of "specified sexual activities" or "specified anatomical areas."

10 K. "Adult oriented material" shall mean accessories, paraphernalia, books,  
11 magazines, laser disks, compact discs, digital video disks, photographs, prints,  
12 drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, holograms or  
13 electronically generated images or devices including computer software, or any  
14 combination thereof that is distinguished or characterized by its emphasis on matter  
15 depicting, describing or relating to "specified sexual activities" or "specified anatomical  
16 areas." "Adult oriented material" shall include "sexually oriented merchandise."

17 L. "Establishment of an adult business" shall mean any of the following:

- 18 1. The opening or commencement of any "adult business" (as  
19 defined above) as a new business;
- 20 2. The conversion of an existing business, whether or not an "adult  
21 business," to any "adult business;"
- 22 3. The addition of any "adult business" to any other existing "adult  
23 business;"
- 24 4. The relocation of any "adult business;" or
- 25 5. Physical changes that expand the square footage of an existing  
26 "adult business" by more than ten percent (10%).

27 M. "Owner/license holder" shall mean any of the following: (1) the sole  
28 proprietor of an adult business; (2) any general partner of a partnership that owns and

1 operates an adult business; (3) the owner of a controlling interest in a corporation or  
2 L.L.C. that owns and operates an adult business; or (4) the person designated by the  
3 officers of a corporation or the members of an L.L.C. to be the license holder for an  
4 adult business owned and operated by the corporation.

5 N. "Non-performer" shall mean a person who is an employee or  
6 independent contractor of an adult business who works in that adult business during  
7 regular business hours. This shall not include after hours workers providing janitorial,  
8 trash or similar after hours services.

9 O. "Performer" shall mean a person who is an employee or independent  
10 contractor of an adult business or any other person who, with or without any  
11 compensation or other form of consideration, provides "adult live entertainment" for  
12 patrons of an "adult business."

13 P. "Sexually oriented merchandise" shall mean sexually oriented  
14 implements, paraphernalia, or novelty items such as, but not limited to: dildos, auto  
15 sucks, sexually oriented vibrators, benwa balls, inflatable orifices, anatomical balloons  
16 with orifices, simulated and battery operated vaginas, and similar sexually oriented  
17 devices which are designed or marketed primarily for the stimulation of human genital  
18 organs or sado masochistic activity or distinguished or characterized by their emphasis  
19 on matter depicting, describing or relating to "specified sexual activities" or "specified  
20 anatomical areas."

21 Q. "Specified anatomical areas" shall mean and include any of the following:

- 22 1. Less than completely and opaquely covered, and/or simulated to  
23 be reasonably anatomically correct, even if completely and opaquely covered human:
- 24 a. genitals, pubic region;
  - 25 b. buttocks, anus; or
  - 26 c. female breasts below a point immediately above the top of  
27 the areola; or
- 28

1           2. Human male genitals in a discernibly turgid state, even if  
2 completely or opaquely covered.

3           R. "Specified sexual activities" shall mean and include any of the following,  
4 irrespective of whether performed directly or indirectly through clothing or other  
5 covering:

6           1. Human genitals in a state of sexual stimulation or arousal; and/or

7           2. Acts of human masturbation, sexual stimulation or arousal; and/or

8           3. Use of human or animal ejaculation, sodomy, oral copulation,  
9 coitus or masturbation; and/or

10          4. Masochism, erotic or sexually oriented torture, beating, or the  
11 infliction of pain, or bondage and/or restraints; and/or

12          5. Human excretion, urination, menstruation, vaginal or anal  
13 irrigation; and/or

14          6. Fondling or other erotic touching of human genitals, pubic region,  
15 buttock, or female breast.

16          SECTION 3. Chapter 85.21 is added to Division 5 of Title 8 of the San  
17 Bernardino County Code to read:

18 **Chapter 85.21           Adult-Oriented Business Regulatory Permit**

19 **Sections:**

20       85.21.010   Purpose.

21       85.21.020   License Required/Applicability.

22       85.21.030   Issuance of License/Procedures.

23       85.21.040   Inspection.

24       85.21.050   Suspension or Revocation of an adult-oriented Business Operator  
25 License.

26       85.21.060   Appeal Procedures.

27       85.21.070   Transfer of Adult-oriented Business Regulatory Permit.

28       85.21.080   Violations.

1       85.21.090    Applicability of Chapter to Existing Businesses.

2       85.21.100    Regulations Non-exclusive.

3       **85.21.010    Purpose.**

4           It is the purpose of this Chapter to provide a process for the County Land Use  
5 Services Department to review all applications submitted to the County for an Adult-  
6 oriented Business Regulatory Permit that are in compliance with Division 2 (Land Use  
7 Zoning Districts and Allowable Land Uses) and the other applicable requirements of  
8 this Development Code. This process will ensure that all adult-oriented businesses are  
9 in compliance with all applicable regulations and will promote the health, safety, and  
10 general welfare of the citizens of the County, and prevent the deleterious secondary  
11 effects of adult-oriented businesses within the County. The provisions of this Chapter  
12 have neither the purpose nor effect of imposing a limitation or restriction on the content  
13 or reasonable access to any communicative materials, including adult-oriented  
14 materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny  
15 access by adults to adult-oriented materials protected by the First Amendment, or to  
16 deny access by the distributors and exhibitors of adult-oriented entertainment to their  
17 intended market.

18       **85.21.020    License Required/Applicability.**

19           A.       All adult-oriented businesses are subject to the Adult-oriented Business  
20 Regulatory Permit requirements of Chapter 84.02, this Chapter as well as all other  
21 applicable ordinances of the County and laws of the State of California. It shall be  
22 unlawful for any person to establish, operate, engage in, conduct, or carry on any  
23 adult-oriented business within San Bernardino County unless the person first obtains,  
24 and continues to maintain in full force and effect, an Adult-oriented Business  
25 Regulatory Permit as herein required. Any occurrence of the “establishment” of an  
26 adult-oriented business as defined in Chapter 810.01 of this Title, shall require a new  
27 application for an Adult-oriented Business Regulatory Permit. The Adult-oriented  
28 Business Regulatory Permit shall be subject to the development and operational

standards of Chapter 84.02 of this Title and the requirements of the zoning or other land use provisions applicable to where the facility is located.

B. The Planning Commission shall grant, deny and/or renew an adult use oriented business regulatory permit in accordance with these regulation.

C. Permit applicants shall file a written, signed and verified application at the office of the County Land Use Services Department on a form provided by the Department. Such application shall contain the following information and be accompanied by the following documents:

1. If the permit applicant is an individual, the individual shall state his or her legal name, including any aliases, and address, and shall submit satisfactory written proof that he or she is at least 18 years of age.

2. If the permit applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, and whether the partnership is general or limited; and shall attach a copy of the partnership agreement, if any.

3. If the permit applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of California, the names and capacities of all officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.

4. A signed and verified statement that the license applicant, if an individual, or if a partnership or corporation by its partners, its officers or its directors, that the applicant has not pled guilty or nolo contendere or been convicted of an offense classified by this or any other state as a sex or sex-related offense, including crimes involving moral turpitude, prostitution, or obscenity, and (a) more than two (2) years have elapsed since the date of conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the conviction is a misdemeanor; or (b) more than five (5) years have elapsed since

1 the date of conviction or the date of release from confinement for the conviction to the  
2 date of application, whichever is the later date, if the conviction is a felony; or (c) more  
3 than five (5) years have elapsed since the date of the last conviction or the date of  
4 release from confinement for the conviction to the date of application, whichever is the  
5 later date, if the convictions are two or more misdemeanors or combination of  
6 misdemeanor offenses occurring within any 24-month period.

7           5. The permit applicant shall provide a list of all performers and non-  
8 performers, which includes the performer's/non-performer's legal name, and mailing  
9 address, and satisfactory written proof that each performer/non-performer is at least 18  
10 years of age. If the Adult-oriented Business Regulatory Permit is granted, the owner/  
11 operator shall maintain this list with current and updated information and shall make  
12 this list available for inspection upon reasonable notice.

13           6. Each performer and non-performer working for a license applicant  
14 shall provide the license applicant with a signed and verified statement that the non-  
15 performer has not pled guilty or pled nolo contendere or been convicted of an offense  
16 classified by this or any other state as a sex or sex-related offense, including crimes  
17 involving moral turpitude, prostitution, or obscenity, and (a) more than two (2) years  
18 have elapsed since the date of conviction or the date of release from confinement for  
19 the conviction to the date of application, whichever is the later date, if the conviction is  
20 a misdemeanor; or (b) more than five (5) years have elapsed since the date of  
21 conviction or the date of release from confinement for the conviction to the date of  
22 application, whichever is the later date, if the conviction is a felony; or (c) more than  
23 five (5) years have elapsed since the date of the last conviction or the date of release  
24 from confinement for the conviction to the date of application, whichever is the later  
25 date, if the convictions are two or more misdemeanors or combination of misdemeanor  
26 offenses occurring within any 24-month period.

27           7. If the permit applicant intends to operate the adult-oriented  
28 business under a name other than that of the permit applicant, the permit applicant

1 shall file the fictitious name of the adult-oriented business and show proof of  
2 registration of the fictitious name.

3           8. A description of the type of adult-oriented business for which the  
4 permit is requested and the proposed address where the adult-oriented business will  
5 operate, plus the names and addresses of the owners and lessors of the adult-oriented  
6 business site.

7           9. The address to which notice of action on the application is to be  
8 mailed if different from the applicant's address.

9           10. A sketch or diagram showing the interior configuration of the  
10 premises, including a statement of the total floor area occupied by the adult-oriented  
11 business. The sketch or diagram need not be professionally prepared but must be  
12 oriented to the north or some other designated street or object and drawn to a  
13 designated scale or drawn with marked dimensions of the interior of the premises to an  
14 accuracy of plus or minus six inches.

15           11. A diagram of the off-street parking areas and entries to the  
16 premises of the adult-oriented business, also showing the location of the lighting  
17 system required by this Chapter.

18           D. The completed application shall be accompanied by a non-refundable  
19 application fee. The amount of such fees shall be set by ordinance adopted by the  
20 Board of Supervisors.

21           E. The completeness of an application for an Adult-oriented Business  
22 Regulatory Permit shall be determined by the Land Use Services Department Director  
23 ("the Director") within five (5) business days of its submittal. If the Director determines  
24 that the permit application is incomplete, the Director shall immediately notify in writing  
25 the permit applicant of such fact and the reasons therefor, including any additional  
26 information necessary to render the application complete. Such writing shall be  
27 deposited in the U.S. mail, postage prepaid, immediately upon determination that the  
28 application is incomplete. Within five business days following the receipt of an

1 amended application or supplemental information, the Director shall again determine  
2 whether the application is complete in accordance with the provisions set forth above.  
3 Evaluation and notification shall occur as provided herein until such time as the  
4 application is found to be complete.

5 F. The fact that a permit applicant possesses other types of state or city  
6 licenses or permits does not exempt the permit applicant from the requirement of  
7 obtaining an Adult-oriented Business Regulatory Permit under this Chapter.

8 **85.21.030 Issuance of Permit /Procedures.**

9 A. Upon the filing of a completed application for an Adult-oriented Business  
10 Regulatory Permit, the Director shall immediately write or stamp the application  
11 "Received" and, in conjunction with County staff, shall promptly investigate the  
12 information contained in the application to determine whether an Adult-oriented  
13 Business Regulatory Permit shall be granted. Investigation shall not be grounds for  
14 the County to unilaterally delay in reviewing a completed application, nor is it grounds  
15 to extend the time period to conduct a hearing pursuant to this section.

16 B. Within 21 days after the filing of a completed Adult-oriented Business  
17 Regulatory Permit application, the investigation shall be completed. The Director shall  
18 promptly notice a public hearing with notice of such hearing to be made pursuant to  
19 California Government Code §§ 65091 and 65905. Said public hearing shall be  
20 conducted within 30 days of the expiration of the completed investigation period.

21 C. In reaching a decision on the application, the Planning Commission shall  
22 not be bound by the formal rules of evidence in the California Evidence Code.

23 D. A written decision on the application for an Adult-oriented Business  
24 Regulatory Permit shall be issued by the Planning Commission within four (4) business  
25 days after the public hearing required by this section. The failure of the Planning  
26 Commission to render any decision within the time frames established in any part of  
27 this section shall be deemed to constitute an approval subject to the compliance with  
28 all operating standards of Chapter 84.02. The provisions of this Chapter and the

1 requirements of the zoning, environmental, performance standards or other land use  
2 provisions applicable to where the facility is located, and shall be subject to appeal to  
3 the Board of Supervisors, pursuant to Chapter 86.08 of this Title. The decision of the  
4 Planning Commission shall be hand delivered or mailed to the applicant at the address  
5 provided in the application, and shall be provided in accordance with the requirements  
6 of this Code.

7 E. Notwithstanding any provisions in this section regarding the occurrence  
8 of any action within a specified period of time, the applicant may request additional  
9 time beyond that provided for in this section or may request a continuance regarding  
10 any decision or consideration by the County of the pending application. Extensions of  
11 time sought by applicants shall not be considered delay on the part of the County or  
12 constitute failure by the County to provide for prompt decisions on applications.

13 F. The Planning Commission shall grant or deny the application in  
14 accordance with the provisions of this section, and so notify the applicant as follows:

15 1. The Director shall write or stamp "Granted" or "Denied" on the  
16 application and date and sign such notation.

17 2. If the application is denied, the Director shall attach to the  
18 application a statement of the reasons for the denial.

19 3. If the application is granted, the Director shall attach to the  
20 application an Adult-oriented Business Regulatory Permit.

21 G. The Planning Commission shall grant the application and issue the Adult-  
22 oriented Business Regulatory Permit upon findings that the proposed business meets,  
23 or will meet, all of the development, operational and environmental performance  
24 standards of the San Bernardino County Code, unless the application is denied based  
25 upon the noncompliance with one or more of the criteria set forth in this Chapter.

26 H. If the Planning Commission grants the application, the applicant may  
27 begin operating the adult-oriented business for which the permit was sought, subject to  
28 strict compliance with the development and operating standards of Chapter 84.02;

1 compliance with the environmental performance standards and requirements of this  
2 Chapter. The permittee shall post the permit conspicuously in the premises of the  
3 adult-oriented business.

4 I. Findings: The Planning Commission shall deny the application if the  
5 applicant fails to establish any of the following:

6 1. The adult-oriented business complies with the County's zoning  
7 requirements as to its underlying zoning designation and other locational requirements.

8 2. The adult-oriented business complies with the development,  
9 operating or environmental performance standards found in Chapter 84.02 of this Title.

10 3. The permit applicant is at least 18 years of age.

11 4. The required application fees have been paid.

12 5. The application complies with 85.21.020 C.

13 J. A permittee, applicant or substantially related entity wherein the new  
14 application is made by an individual or previous entity exercising management or  
15 oversight or control of the adult-oriented business, cannot re-apply for an Adult-  
16 oriented Business Regulatory Permit for a particular location within one year from the  
17 date of prior denial.

18 K. Any affected person may appeal the decision of the Planning  
19 Commission in writing within ten days in accordance with the provisions of Chapter  
20 86.08 of this Title.

21 **85.21.040 Inspection.**

22 Each owner, operator, manager, employee or independent contractor of an  
23 adult business or other person in charge of an adult business shall permit  
24 representatives of the County Sheriff, health department, fire department, community  
25 development department, business license division and other County departments, to  
26 inspect the adult business for the purpose of insuring compliance with the laws and  
27 operating standards applicable to adult businesses at any time it is occupied or open  
28 for business. Such inspections shall be conducted in a reasonable manner.

**85.21.050 Suspension or Revocation of an Adult-oriented Business Regulatory Permit.**

A. On determining that grounds for permit suspension or revocation exist, the Director shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be delivered to the permittee personally, at least ten (10) days prior to the hearing date.

Hearings pursuant to this section shall be noticed in accordance with California Government Code §§ 65091 and 65905 and conducted by the Planning Commission.

Hearings pursuant to this section shall be conducted in accordance with procedures established by the Planning Commission but, at a minimum, shall include the following:

1. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues and may be represented by counsel.

2. The Planning Commission shall not be bound by the formal rules of evidence.

3. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness at the request of the permittee. Extensions of time or continuances sought by a permittee shall not be considered delay on the part of the County or constitute failure by the County to provide for prompt decisions on permit suspensions or revocations.

4. The Planning Commission's decision may be appealed in accordance with Chapter 86.08 of this Title.

B. A permit may be suspended or revoked based on the following causes arising from the acts or omissions of the permittee, or an employee, independent contractor, partner, operator or manager of the permittee:

1           1. The building, structure, equipment, or location used by the adult-  
2 oriented business fails to comply with all provisions of these regulations and this  
3 section relating to adult-oriented businesses, including the adult-oriented business  
4 operating standards contained in Chapter 84.02 and the zoning requirements of  
5 Chapter 82.05 of this Title, and all other applicable building, fire, electrical, plumbing,  
6 health, environmental performance standards and zoning requirements of the San  
7 Bernardino Code.

8           2. The permittee has failed to obtain or maintain all required County  
9 licenses or permits with respect to the business or the premises.

10           3. The permittee has made any false, misleading, or fraudulent  
11 statement of material fact in the application for an Adult-oriented Business Regulatory  
12 Permit.

13           4. The permit is being used to conduct an activity different from that  
14 for which it was issued.

15           5. That an individual employed by, or performing in, the adult  
16 business (whether classified as an employee or independent contractor) has been  
17 convicted of two (2) or more sex-related offenses that occurred in or on the licensed  
18 premises within a twelve (12) month period and was employed by, or performing in, the  
19 adult business at the time the offenses were committed.

20           6. That the use for which the approval was granted has ceased to  
21 exist, has been suspended or has not been active for six months or more.

22           7. That the transferee/new owner of an adult-oriented business or  
23 Adult-oriented Business Regulatory Permit failed to comply with the requirements of  
24 this Chapter.

25           8. The permittee, partner, director, operator, or manager has  
26 knowingly allowed or permitted, or has failed to make a reasonable effort to prevent  
27 the occurrence of any of the following on the premises of the adult business; or a  
28

1 licensee has been convicted of violating any of the following state laws on the  
2 premises of the adult business:

3                   a. Any act of unlawful sexual intercourse, sodomy, oral  
4 copulation, or masturbation.

5                   b. Use of the establishment as a place where unlawful  
6 solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly  
7 occur.

8                   c. Any conduct constituting a criminal offense which requires  
9 registration under section 290 of the California Penal Code.

10                  d. The occurrence of acts of lewdness, assignation, or  
11 prostitution, including any conduct constituting violations of sections 315, 316, 318 or  
12 subdivision (b) of the section 647b of the California Penal Code.

13                  e. Any act constituting a violation of provisions in the  
14 California Penal Code relating to obscene matter or distribution of harmful matter to  
15 minors including, but not limited to sections 311 through 313.4.

16                  f. Any act constituting a felony involving the sale, use,  
17 possession, or possession for sale of any controlled substance specified in sections  
18 11054, 11055, 11056, 11057, or 11058 of the California Health & Safety Code.

19                  g. An act or omission in violation of any of the requirements of  
20 this chapter if such act or omission is with the knowledge, authorization, or approval of  
21 the license holder or is as a result of the license holder's negligent supervision of the  
22 employees or independent contractors of the adult facility. This includes the allowance  
23 of activities that are or become a public nuisance which includes the disruptive conduct  
24 of business patrons whether on or immediately off the premises where such patrons  
25 disturb the peace, obstruct traffic, damage property, engage in criminal conduct,  
26 violate the law and otherwise impair the free enjoyment of life and property.

1 C. After holding the hearing in accordance with the provisions of this  
2 section, if the Planning Commission finds and determines that there are grounds for  
3 suspension or revocation, the Planning Commission shall impose one of the following:

4 1. Suspension of the permit for a specified period not to exceed six  
5 months; or

6 2. Revocation of the permit.

7 The Director shall render a written decision that shall be hand delivered or  
8 overnight mailed to the permittee within five days of the public hearing.

9 D. In the event a permit is revoked pursuant to this section, another Adult-  
10 oriented Business Regulatory Permit to operate an adult-oriented business shall not be  
11 granted to the permittee or an entity related to the permittee within 12 months after the  
12 date of such revocation.

13 **85.21.060 Appeal Procedures.**

14 A. After approval, denial, suspension or revocation of a permit, any affected  
15 person may appeal the decision to the Board of Supervisors in writing within ten (10)  
16 days after the written decision.

17 B. Consideration of an appeal of the decision shall be conducted pursuant  
18 to , and which hearing shall occur within forty-five (45) days of the filing or initiation of  
19 the appeal.

20 C. Upon the conclusion of the de novo public hearing, the Board of  
21 Supervisors shall grant or deny the appeal. The Board of Supervisors' decision shall  
22 be final and conclusive and shall be rendered in writing within four (4) County business  
23 days of the hearing, such written decision to be mailed to the party appealing the  
24 decision.

25 D. In reaching its decision, the Board of Supervisors shall not be bound by  
26 the formal rules of evidence.

27 E. Notwithstanding any provisions in this section regarding the occurrence  
28 of any action within a specified period of time, the applicant may request additional

1 time beyond that provided for in this section or may request a continuance regarding  
2 any decision or consideration by the County of the pending appeal. Extensions of time  
3 sought by applicants shall not be considered delay on the part of the County or  
4 constitute failure by the County to provide for prompt decisions on applications.

5 F. Failure of the Board of Supervisors to render a decision to grant or deny  
6 an appeal of a permit denial within the time frames established by this section shall be  
7 deemed to constitute an approval of the Adult-oriented Business Regulatory Permit.

8 G. The time for a court challenge to a decision of the hearing officer is  
9 governed by California Code of Civil Procedure § 1094.8.

10 H. Notice of the Board of Supervisors' decision and its findings shall include  
11 citation to California Code of Civil Procedure § 1094.8.

12 I. Any applicant or permittee whose permit has been denied pursuant to  
13 this section shall be afforded prompt judicial review of that decision as provided by  
14 California Code of Civil Procedure § 1094.8.

15 **85.21.070 Transfer of Adult-oriented Business Regulatory Permit.**

16 A. A permit holder shall not operate an adult-oriented business under the  
17 authority of an Adult-oriented Business Regulatory Permit at any place other than the  
18 address of the adult-oriented business stated in the application for the permit.

19 B. In the event of a transfer of ownership of the adult-oriented business, the  
20 new owner shall be fully informed of the requirements of this Chapter and of Chapter  
21 84.02, including the operational and development standards herein.

22 C. In the event of a transfer of the adult business or the adult business  
23 license, the transferee must provide the Director with the following information within  
24 seven (7) days of the transfer:

25 1. If the transferee is an individual, the individual shall state his or her  
26 legal name, including any aliases, and address, and shall submit satisfactory written  
27 proof that he or she is at least eighteen (18) years of age.

28 2. If the transferee is a partnership, the partners shall state the

1 partnership's complete name, address, the names of all partners, and whether the  
2 partnership is general or limited; and shall attach a copy of the partnership agreement, if  
3 any.

4           3. If the transferee is a corporation or L.L.C., the entity shall provide its  
5 complete name, the date of its incorporation or organization, evidence that it is in good  
6 standing under the laws of the State of California, the names and capacities of all  
7 officers and directors, managers or members having supervisory or managerial control  
8 over the facility, the name of the registered agent, and the address of the registered  
9 office for service of process.

10 **85.21.080   Violations.**

11           A.   Any owner, operator, manager or employee of an adult-oriented business  
12 violating or permitting, counseling, or assisting the violation of any of the provisions  
13 regulating adult-oriented businesses shall be subject to any and all civil remedies,  
14 including permit revocation. All remedies provided herein shall be cumulative and not  
15 exclusive. Any violation of these provisions shall constitute a separate violation for  
16 each and every day during which such violation is committed or continued.

17           B.   In addition to the remedies set forth in Subsection (a) of this section, any  
18 adult-oriented business that is operating in violation of the provisions regulating adult-  
19 oriented businesses is hereby declared to constitute a public nuisance and, as such,  
20 may be abated or enjoined from further operation.

21           C.   The restrictions imposed pursuant to this section constitute a licensing or  
22 permitting process, and do not constitute a criminal offense. Notwithstanding any  
23 other provision of the San Bernardino County Code, the County does not impose a  
24 criminal penalty for violations of the provisions of this ordinance related to sexual  
25 conduct or activities.

26  
27 **85.21.090   Applicability of Chapter to Existing Businesses.**

1       **A. Permitting Requirements.** Any adult-oriented businesses operating in  
 2 the County prior to the effective date of this Chapter must apply for a permit under this  
 3 Chapter unless one has been previously approved.

4       **B. Interior Configuration Requirements.** Any legal pre-existing adult-  
 5 oriented business that is required to, but does not, have interior configurations or  
 6 stages that meet at least the minimum requirements of Chapter 84.02 shall have 90  
 7 days from the effective date of this Chapter to conform its premises to said  
 8 requirements.

9       **C. Other Requirements.** Except as provided for in Subsections (a) and (b)  
 10 of this section, adult-oriented businesses shall comply with this Chapter and Chapter  
 11 84.02 on the date that it takes effect.

#### 12       **85.21.100 Regulations Non-exclusive.**

13 The provisions of this Chapter and Chapter 84.02 regulating adult-oriented businesses  
 14 are not intended to be exclusive, and compliance therewith shall not excuse  
 15 non-compliance with any other provisions of the County Code and/or any other  
 16 regulations pertaining to the operation of businesses as adopted by the County.

17       SECTION 4. Chapter 28 is added to Division 1 of Title 4 of the San Bernardino  
 18 County Code to read:

#### 19       **Chapter 28 ADULT-ORIENTED BUSINESS PERFORMER LICENSE**

##### 20       **Sections:**

21       41.2801 Definitions.

22       41.2802 Purposes

23       41.2803 Adult-oriented Business Performer License.

24       41.2804 Investigation and Action on Application for Adult-oriented Business  
 25 Performer License.

26       41.2805 Revocation/Suspension/Denial of Adult-oriented Business Performer  
 27 License.

28       41.2806 Display of License Identification Cards.

1 41.2807 Adult-oriented Business Performer License Nontransferable.

2 41.2808 Violations.

3 41.2809 Regulations Non-Exclusive

4 41.28010 Severability.

5 **41.2801 Definitions.**

6 The definitions for this Chapter shall be governed by the definitions found in  
7 Subsection 810.01.030(I) of the County Development Code unless otherwise stated.

8 **41.2802 Purpose.**

9 It is the purpose and intent of this chapter to provide for the licensing of adult  
10 business performers in order to promote the health, safety, and general welfare of the  
11 County. The goals of the performer licensing provisions are (1) to protect minors by  
12 requiring that all performers be over the age of eighteen (18) years; (2) to assure the  
13 correct identification of persons performing in adult businesses; (3) to enable the  
14 County to deploy law enforcement resources effectively; and (4) to detect and  
15 discourage the involvement of crime in adult businesses by precluding the licensing of  
16 performers with certain sex related convictions within a prior time period. It is neither  
17 the intent nor the effect of these regulations to invade the privacy of performers or to  
18 impose limitations or restrictions on the content of any communicative material.  
19 Similarly, it is neither the intent nor the effect of these regulations to restrict or deny  
20 access by adults to communicative materials or to deny access by the distributors or  
21 exhibitors of adult businesses to their intended lawful market. Nothing in these  
22 regulations is intended to authorize, legalize, or permit the establishment, operation, or  
23 maintenance of any business, building, or use which violates any County ordinance or  
24 any statute of the State of California regarding public nuisances, unlawful or indecent  
25 exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or  
26 public display thereof.

27 **41.2803 Adult-oriented Business Performer License.**

28

1 A.No performer/adult cabaret dancer shall be employed, hired, engaged, or  
2 otherwise retained in an adult-oriented business, legally established pursuant to  
3 Chapter 85.21 of Division 5 of Title 8 [Development Code] of the San Bernardino  
4 County Code, to participate in or give any live performance displaying “specified  
5 anatomical areas” or “specified sexual activities” without first having a valid Adult-  
6 oriented Business Performer License issued by the County.

7 B.The County Clerk of the Board (“the Clerk”) or his/her designee shall  
8 grant, deny, and renew Adult-oriented Business Performer Licenses in accordance  
9 with these regulations.

10 C. License applicants shall file a written, signed, and verified application or  
11 renewal application on a form provided by the Clerk. Such application shall contain the  
12 following information:

13 1. The license applicant’s legal name and any other names  
14 (including “stage names” and aliases) used by the applicant.

15 2. Principal place of residence.

16 3. Age, date and place of birth.

17 4. Height, weight, hair and eye color, and tattoo descriptions and  
18 locations.

19 5. Each present and/or proposed business address(es) and  
20 telephone number(s) of the establishments at which the applicant intends to work.

21 6. Driver’s license or identification number and state of issuance.

22 7. Social security number.

23 8. Satisfactory written proof that the license applicant is a least  
24 eighteen (18) years of age.

25 9. The license applicant’s fingerprints on a Livescan form provided by  
26 the San Bernardino County Sheriff’s Department and two, color two-by-two inch  
27 photographs clearly showing the applicant’s face. Any fees for the photographs and  
28

1 fingerprints shall be paid by the applicant. Fingerprints and photographs shall be taken  
2 within six (6) months of the date of application.

3           10. Whether the license applicant has pled guilty or nolo contendere  
4 or been convicted of an offense classified by this or any other state as a sex related  
5 offense and

6                   (a) less than two years have elapsed since the date of  
7 conviction or the date of release from confinement for the conviction to the date of  
8 application, whichever is the later date, if the conviction is a misdemeanor; or

9                   (b) less than five years have elapsed since the date of  
10 conviction or the date of release from confinement for the conviction to the date of  
11 conviction, whichever is the later date, if the conviction is a felony; or

12                   (c) less than five years have elapsed since the date of the last  
13 conviction or the date of release from confinement for the conviction to the date of  
14 application, whichever is the later date, if the convictions are two or more  
15 misdemeanors or combination of misdemeanor offenses occurring within any twenty-  
16 four (24) month period.

17           11. If the application is made for the purpose of renewing a license,  
18 the license applicant shall attach a copy of the license to be renewed.

19           D. The information provided above in Subsection (c) of this section which is  
20 personal, private, confidential or the disclosure of which could expose the applicant to  
21 the risk of harm will not be disclosed under the California Public Records Act or the  
22 open government ordinance. Such information includes, but is not limited to, the  
23 applicant's residence address, telephone number, date of birth, age, driver's license  
24 and social security number. The Board of Supervisors in adopting the application and  
25 licensing and/or permit system set forth herein has determined in accordance with  
26 Government Code § 6255 that the public interest in disclosure of the information set  
27 forth above is outweighed by the public interest in achieving compliance with this  
28 Chapter by ensuring that the applicant's privacy, confidentiality or security interests are

1 protected. The above-mentioned information shall be redacted from any copy of a  
2 completed application form made available to any member of the public,

3 E. The completed application shall be accompanied by a non-refundable  
4 application fee and an annual license fee. The amount of such fees shall be as set  
5 forth in the schedule of fees established by ordinance from time to time by the Board of  
6 Supervisors.

7 F. The completeness of an application shall be determined within 24  
8 business hours by the Clerk. The Clerk or his/her designee must be available during  
9 normal working hours Monday through Friday to accept Adult-oriented Business  
10 Performer License applications. If the Clerk determines that the application is  
11 incomplete, the Clerk shall immediately inform the applicant of such fact and the  
12 reasons therefor, including any additional information necessary to render the  
13 application complete. Upon receipt of a completed Adult-oriented Business Performer  
14 License application and payment of the license fee specified in Subsection (e) of this  
15 section, the Clerk shall immediately issue a temporary license which shall expire of its  
16 own accord ten (10) business days from the date of issuance and shall only be  
17 extended as provided in Section 41.2803.

18 G. This temporary Adult-oriented Business Performer License shall  
19 authorize the license applicant to commence performance at an adult-oriented  
20 business establishment that possesses a valid Adult-oriented Business Regulatory  
21 Permit authorized to provide live entertainment.

22 H. The fact that a license applicant possesses other types of state or city  
23 permits or licenses does not exempt the license applicant from the requirement of  
24 obtaining an adult-oriented Business Performer License.

25 **41.2804 Investigation and Action on Application for Adult-oriented Business**  
26 **Performer License.**

27 A. Upon submission of a completed application, payment of license fees,  
28 and issuance of a temporary Adult-oriented Business Performer License pursuant to

1 Section 41.2802, the Clerk shall immediately stamp the application "Received" and in  
2 conjunction with County staff, including members of the Sheriff's Department, shall  
3 promptly investigate the information contained in the application to determine whether  
4 the license applicant should be issued an Adult-oriented Business Performer License.

5 B. Investigation shall not be grounds for the County to unilaterally delay in  
6 reviewing a completed application. The Clerk's decision to grant or deny the adult  
7 business performer license shall be made within ten (10) business days from the date  
8 the temporary license was issued and in no case shall the decision to grant or deny the  
9 license application be made after the expiration of the temporary license. In the event  
10 the Clerk is unable to complete the investigation within ten (10) business days, he/she  
11 shall promptly notify the license applicant and extend the temporary license for up to  
12 ten (10) additional business days. In no case shall the investigation exceed twenty  
13 (20) days, nor shall the decision to grant or deny the license application be made after  
14 the expiration of the temporary license.

15 C. The Clerk shall render a written decision to grant or deny the license  
16 within the foregoing ten (10) day time period set forth in Subsection (b) of this section.  
17 Said decision shall be mailed first class postage prepaid or hand delivered to the  
18 applicant within the foregoing ten (10) day period, or twenty (20) day period if extended  
19 pursuant to Subsection (b) of this section, at the address provided by the applicant in  
20 the application.

21 D. The Clerk shall notify the applicant as follows:

22 1. The Clerk shall write or stamp "Granted" or "Denied" on the  
23 application and date and sign such notation.

24 2. If the application is denied, the Clerk shall attach to the application  
25 a statement of the reasons for the denial. Such notice shall also provide that the  
26 license applicant may appeal the denial pursuant to Section 41.2804.

27 3. If the application is granted, the Clerk shall attach to the  
28 application a Adult-oriented Business Performer License.

1                   4. The application, as acted upon, and the license, if any, shall be  
2 placed in the United States mail, first class postage prepaid, or hand delivered,  
3 addressed to the license applicant at the residence address stated in the application in  
4 accordance with the time frames established herein.

5                   E. The Clerk shall grant the application and issue the license unless the  
6 application is denied based on one of the grounds set forth in Subsection (f) of this  
7 section.

8                   F. The Clerk shall deny the application based on any of the following  
9 grounds:

10                   1. The license applicant has made false, misleading, or fraudulent  
11 statement of material fact in the application for an Adult-oriented Business Performer  
12 License.

13                   2. The license applicant is under eighteen (18) years of age.

14                   3. The Adult-oriented Business Performer License is to be used for  
15 performing in a business prohibited by laws of the state or county or a business that  
16 does not have a valid Adult-oriented Business Regulatory Permit.

17                   4. The license applicant, has pled guilty, nolo contendere or been  
18 convicted of an offense classified by this or any other state as a sex related offense  
19 and (a) less than two years have elapsed since the date of conviction or the date of  
20 release from confinement for the conviction to the date of application, whichever is the  
21 later date, if the conviction is a misdemeanor, or (b) less than five years have elapsed  
22 since the date of conviction or the date of release from confinement for the conviction  
23 to the date of application, whichever is the later date, if the conviction is a felony; or (c)  
24 less than five years have elapsed since the date of the last conviction or the date of  
25 release from confinement for the conviction to the date of application, whichever is the  
26 later date, if the convictions are two or more misdemeanors or combination of  
27 misdemeanor offenses occurring within any twenty-four (24) month period.  
28

1 G. Failure of the Clerk to render a decision on the license within the time  
2 frames established by this section shall be deemed to constitute an approval.

3 H. Each Adult-oriented Business Performer License, other than the  
4 temporary license described in Section 41.2802, shall expire one (1) year from the  
5 date of issuance and may be renewed only by filing with the Clerk a written request for  
6 renewal, accompanied by the annual license fee and a copy of the license to be  
7 renewed. If said application conforms to the previously approved application and there  
8 has been no change with respect to the license holder being convicted of any crime  
9 classified by this or any other state as a sex related offense and no other grounds exist  
10 under Subsection (F) of this section, the Clerk or his/her designee shall renew the  
11 license for one (1) year. If any ground set forth in Subsection (f) of this section exists,  
12 then the license shall not be automatically renewed and the notice, including notice of  
13 right to appeal, shall be provided as set forth in subsection (d)(2) of this section. The  
14 request for renewal shall be made at least thirty (30) days before the expiration date of  
15 the license. Applications for renewal shall be acted upon as provided herein for action  
16 upon applications for license. The Clerk's denial of a renewal application is subject to  
17 the provisions of Section 41.2805.

18 **41.2805 Revocation/Suspension/Renewal/Denial of Adult-oriented Business**  
19 **Performer License.**

20 A. On determining that grounds for denial of a license, denial of a license  
21 renewal, license revocation or license suspension exist, the Clerk or his/her designee  
22 shall furnish written notice of the proposed action to the applicant/license holder.

23 B. The decision of the Clerk shall be appealable to a designated hearing  
24 officer by filing a written request for a hearing with the Clerk within fifteen (15) days  
25 following the day of mailing of the Clerk's decision. A request for hearing must include  
26 payment of the fee for appeals provided under this Code. All such appeals shall be  
27 filed with the Clerk and shall be public records. The Clerk shall issue a notice which  
28 shall set forth the time and place of a hearing before a designated hearing officer

1 which is within thirty (30) days from the date the appeal was filed and the ground or  
2 grounds upon which the proposed action is based, the pertinent San Bernardino  
3 County Code sections, and a brief statement of the factual matters in support thereof.  
4 The notice shall be mailed, postage prepaid, addressed to the last known address of  
5 the applicant/license holder, or shall be delivered to the license holder personally, at  
6 least ten (10) days prior to the hearing date.

7 C. At the hearing, the applicant shall have the right to offer testimonial,  
8 documentary, and tangible evidence bearing upon the issues and may be represented  
9 by counsel. The designated hearing officer shall not be bound by the formal rules of  
10 evidence. Any hearing under this section may be continued for a reasonable time for  
11 the convenience of a party or a witness at the request of the license holder.  
12 Extensions of time or continuances sought by a license holder/appellant shall not be  
13 considered delay on the part of the County or constitute failure by the County to  
14 provide for prompt decisions on license suspensions or revocations.

15 D. A license may be revoked, or suspended based on any of the following  
16 causes arising from the acts or omissions of the license holder:

17 1. The license holder has made any false, misleading, or fraudulent  
18 statement of material fact in the application for a performer license.

19 2. The licensee has pled guilty, nolo contendere or been convicted of  
20 an offense classified by this or any other state as a sex related offense and (a) less  
21 than two years have elapsed since the date of conviction or the date of release from  
22 confinement for the conviction to the date of application, whichever is the later date, if  
23 the conviction is a misdemeanor, or (b) less than five years have elapsed since the  
24 date of conviction or the date of release from confinement for the conviction to the date  
25 of application, whichever is the later date, if the conviction is a felony; or (c) less than  
26 five years have elapsed since the date of the last conviction or the date of release from  
27 confinement for the conviction to the date of application, whichever is the later date, if  
28

1 the convictions are two or more misdemeanors or combination of misdemeanor  
2 offenses occurring within any twenty-four (24) month period.

3 3. Failure to comply with the requirements of this Chapter.

4 E. After holding the hearing in accordance with the provisions of this  
5 section, if the designated hearing officer finds and determines that there are grounds  
6 for revocation or suspension, the hearing officer shall revoke or suspend the license.  
7 After holding the hearing in accordance with the provisions of this section on the denial  
8 of a license, the hearing officer shall decide to sustain the decision, modify the  
9 decision or order the decision stricken and issue such order as the hearing officer finds  
10 is supported by the entire record. The hearing officer shall render a written decision  
11 that shall be hand delivered or overnight mailed to the applicant/license holder within  
12 four (4) business days of the hearing. The designated hearing officer's failure to render  
13 such a decision within this time frame shall constitute an approval or reinstatement of  
14 the license.

15 F. In the event an application for a license or renewal is denied or a license  
16 is revoked pursuant to this section, another Adult-oriented Business Performer License  
17 shall not be granted to the applicant/licensee within twelve (12) months after the date  
18 of such decision.

19 G. The decision of the hearing officer shall be final and no further  
20 administrative appeal is available.

21 H. The time for a court challenge to a decision of the hearing officer is  
22 governed by California Code of Civil Procedure § 1094.8.

23 I. Notice of the Clerk's or hearing officer's decision and his/her findings  
24 shall include citation to California Code of Civil Procedure § 1094.8.

25 J. Any applicant or license holder whose license has been denied,  
26 suspended, or revoked, pursuant to this section shall be afforded prompt judicial  
27 review of that decision as provided by California Code of Civil Procedure § 1094.8.

28 **41.2806 Display of License Identification Cards.**

1 The Clerk shall provide each performer/adult cabaret dancer required to have a  
2 license pursuant to this Chapter with an identification card containing the name,  
3 address, photograph, and license number of such performer/adult cabaret dancer.  
4 Every performer/adult cabaret dancer shall have such card available for inspection at  
5 all times during which he or she is on the premises of the adult-oriented business at  
6 which he or she performs.

7 **41.2807 Adult-oriented Business Performer License Nontransferable.**

8 No Adult-oriented Business Performer License may be sold, transferred, or  
9 assigned by any license holder or by operation of law, to any other person, group,  
10 partnership, corporation, or any other entity. Any such sale, transfer, or assignment, or  
11 attempted sale, transfer, or assignment shall be deemed to constitute a voluntary  
12 surrender of the Adult-oriented Business Performer License, and the license thereafter  
13 shall be null and void.

14 **41.2808 Violations.**

15 A. Any license holder violating or causing the violation of any of these  
16 provisions regulating Adult-oriented Business Performer Licenses shall be subject to  
17 license revocation/suspension pursuant to Section 41.2804 above, a fine of not more  
18 than one thousand dollars (\$1,000.00) pursuant to Government Code §§ 36900 and  
19 36901, and any and all other civil remedies. All remedies provided herein shall be  
20 cumulative and not exclusive. Any violation of these provisions shall constitute a  
21 separate violation for each and every day during which such violation is committed or  
22 continued.

23 B. In addition to the remedies set forth in Section 41.2804, any violation of  
24 any of these provisions regulating Adult-oriented Business Performer Licenses is  
25 hereby declared to constitute a public nuisance and may be abated or enjoined.

26 C. The restrictions imposed pursuant to this section are part of a regulatory  
27 licensing process, and do not constitute a criminal offense. Notwithstanding any other  
28 provision of the San Bernardino County Code, the County does not impose a criminal

1 penalty for violations of the provisions of this ordinance related to sexual conduct or  
2 activities.

3 **41.2809 Regulation Non-Exclusive**

4 The provisions of this chapter regulating adult business performer licenses are  
5 not intended to be exclusive, and compliance therewith shall not excuse  
6 noncompliance with any other regulations pertaining to the licensing provisions as  
7 adopted by the County Board of Supervisors.

8 **41.2810 Severability.**

9 This Chapter and each section and provision of said Chapter hereunder, are  
10 hereby declared to be independent divisions and subdivisions and, notwithstanding  
11 any other evidence of legislative intent, it is hereby declared to be the controlling  
12 legislative intent that if any provisions of said Chapter, or the application thereof to any  
13 person or circumstance is held to be invalid, the remaining sections or provisions and  
14 the application of such sections and provisions to any person or circumstances other  
15 than those to which it is held invalid, shall not be affected thereby, and it is hereby  
16 declared that such sections and provisions would have been passed independently of  
17 such section or provision so known to be invalid. Should any procedural aspect of this  
18 Chapter be invalidated, such invalidation shall not affect the enforceability of the  
19 substantive aspects of this Chapter.

20 SECTION 5. Chapter 29 is added to Division 1 of Title 4 of the San Bernardino  
21 County Code to read:

22 **Chapter 29 ADULT-ORIENTED BUSINESS NON-PERFORMER LICENSE**

23 **Sections:**

24 41.2901 Definitions.

25 41.2902 Purposes

26 41.2903 Adult-oriented Business Non-performer License.

27 41.2904 Investigation and Action on Adult-oriented Business Non-performer  
28 License Application.

1 41.2905 Revocation/Suspension/Denial of Adult-oriented Business Non-performer  
2 License.

3 41.2906 Violations

4 41.2907 Regulations Non-Exclusive

5 41.2908 Severability.

6 **41.2901 Definitions.**

7 The definitions for this Chapter shall be governed by the definitions found in  
8 Subsection 810.01.030(I) of the County Development Code unless otherwise stated.

9 **41.2902 Purpose.**

10 It is the purpose and intent of this chapter to require certain background checks  
11 on non-performers who work in adult businesses during regular business hours to  
12 promote the health, safety, and general welfare of the County. The goals of these  
13 non-performer employee provisions are (1) to protect minors by requiring that all non-  
14 performers regularly employed be over the age of eighteen (18) years; (2) to assure  
15 the correct identification of persons working in adult businesses; (3) to enable the  
16 County Sheriff to deploy law enforcement resources effectively; and (4) to detect and  
17 discourage the involvement of crime in adult businesses by precluding the employment  
18 of non-performers with certain sex related convictions within a prior time period. It is  
19 neither the intent nor the effect of these regulations to invade the privacy of adult  
20 business employees or to impose limitations or restrictions on the content of any  
21 communicative material. Similarly, it is neither the intent nor the effect of these  
22 regulations to restrict or deny access by adults to communicative materials or to deny  
23 access by the distributors or exhibitors of adult businesses to their intended lawful  
24 market. Nothing in these regulations is intended to authorize, legalize, or permit the  
25 establishment, operation, or maintenance of any business, building, or use which  
26 violates any County ordinance or any statute of the State of California regarding public  
27 nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or  
28 harmful matter, or the exhibition or public display thereof.

**41.2903      Adult-oriented Business Non-performer License.**

A.No individual who works as a non-performer in a managerial position in an adult-oriented business shall be employed, hired, engaged, or otherwise retained in an adult-oriented business without first obtaining an adult-oriented Business Non-performer License.

B.Individuals who wish to work as non-performer managers in an adult-oriented business shall file a written, signed, and verified application or renewal application for an adult-oriented Business Non-performer License on a form provided by the Clerk. Such application shall contain the following information:

1. The applicant's legal name and all used aliases.
2. Date of birth.
3. Driver's license or identification number and state of issuance or other state identification which confirms the name of the applicant.
4. The license applicant's fingerprints on a Livescan form provided by the San Bernardino Sheriff's Department. Any fees for fingerprints shall be paid by the applicant. Fingerprints shall be taken within six (6) months of the date of application.
5. Whether the non-performer employee applicant has pled guilty or pled nolo contendere or been convicted of an offense classified by this or any other state as a sex related offense and (a) less than two (2) years have elapsed since the date of conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the conviction is a misdemeanor; or (b) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction to the date of conviction, whichever is the later date, if the conviction is a felony; or (c) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction to the date of application, whichever is the later date, if the convictions are two or more misdemeanors or combination of misdemeanor offenses occurring within any twenty-

1 four (24) month period. Any applicant who admits of a recent prior sex related offense  
2 as specified above shall be denied employment in an adult business during the  
3 applicable time period for disqualification called out herein.

4           6. The name and address of the adult-oriented business where the  
5 applicant proposes to work as a non-performer in a managerial capacity.

6           C. The information provided above in Subsection (b) of this section which is  
7 personal, private, confidential or the disclosure of which could expose the applicant to  
8 the risk of harm will not be disclosed under the California Public Records Act. Such  
9 information includes, but is not limited to, the applicant's mailing address, date of birth,  
10 age, driver's license number and social security number. The Board of Supervisors in  
11 adopting the application system set forth herein has determined in accordance with  
12 Government Code § 6255 that the public interest in disclosure of the information set  
13 forth above is outweighed by the public interest in achieving compliance with this  
14 Chapter by ensuring that the applicant's privacy, confidentiality and/or security  
15 interests are protected. The above-mentioned information shall be redacted from any  
16 copy of a completed application form made available to any member of the public.

17           D. The Clerk or his/her designee must be available during normal working  
18 hours Monday through Friday to accept Adult-oriented Business Non-performer  
19 License applications. The Clerk or his/her designee shall determine if an application is  
20 complete within five (5) business days. If the Clerk determines that the application is  
21 incomplete, the Clerk shall immediately inform the applicant of such fact and the  
22 reasons therefore, including any additional information necessary to render the  
23 application complete. Upon receipt of a completed Adult-oriented Business Non-  
24 performer License application in which the applicant denies any conviction of a  
25 misdemeanor or felony constituting a specified criminal activity, the Clerk or his/her  
26 designee shall permit temporary employment of such applicant in an adult-oriented  
27 business that possesses a valid Adult-oriented Business Regulatory Permit.

28

**41.2904 Investigation and Action on Adult-oriented Business Non-performer License Application.**

A. Upon submission of a completed Adult-oriented Business Non-performer License application by an individual who wishes to work in a managerial position in an adult-oriented business, the Clerk or his/her designee shall immediately stamp the application "Received" and in conjunction with County staff, including members of the Sheriff's Department, shall promptly investigate the information contained in the application to determine whether the provisions of Section 41.2902 are satisfied.

B. Investigation shall not be grounds for the County to unilaterally delay in reviewing a completed application. The Clerk's determination of any violation of Section 41.2902 or the existence of any of the grounds set forth in Subsection (f) below shall be made within ten (10) business days from the date the application is filed with the Clerk. In the event the Clerk is unable to complete the investigation within ten (10) business days, he/she shall promptly notify the applicant. In no case shall the investigation exceed thirty (30) days.

C. The Clerk shall render a written decision to grant or deny the non-performer license within the foregoing ten (10) day time period set forth in Subsection (b) of this section. Said decision shall be mailed first class postage prepaid or hand delivered to the applicant, within the foregoing ten (10) day period, or thirty (30) day period if extended pursuant to Subsection (b) of this section, at the address provided by the applicant in the application. Notice of such decision shall also be mailed first class postage prepaid or hand delivered to the owner or management of the adult-oriented business(es) identified on the applicant's application.

D. The Clerk shall grant the application for a non-performer license unless the application is denied based on one or more of the grounds set forth in Subsection (e) of this section.

1 E. The Clerk shall deny the application of a non-performer for a license to  
2 work in a managerial capacity at an adult-oriented business, or suspend or revoke an  
3 existing license, based on any of the following grounds:

4 1. The applicant/license holder has made a false, misleading, or  
5 fraudulent statement of material fact in the application for a non-performer license.

6 2. The applicant is under eighteen (18) years of age.

7 3. The adult-oriented business identified by the applicant is not  
8 authorized to operate as a business under the laws of the state or County and/or does  
9 not have a valid Adult-oriented Business Regulatory Permit.

10 4. The non-performer work applicant has pled guilty, or pled nolo  
11 contendere or been convicted of an offense classified by this or any other state as a  
12 sex related offense and

13 (a) less than two (2) years have elapsed since the date of  
14 conviction or the date of release from confinement for the conviction to the date of  
15 application, whichever is the later date, if the conviction is a misdemeanor, or

16 (b) less than five (5) years have elapsed since the date of  
17 conviction or the date of release from confinement for the conviction to the date of  
18 application, whichever is the later date, if the conviction is a felony; or

19 (c) less than five (5) years have elapsed since the date of the  
20 last conviction or the date of release from confinement for the conviction to the date of  
21 application, whichever is the later date, if the convictions are two or more  
22 misdemeanors or combination of misdemeanor offenses occurring within any twenty-  
23 four (24) month period.

24 5. Failure to comply with the requirements of this Chapter.

25 F. The Clerk shall notify the applicant as follows:

26 1. The Clerk shall write or stamp "Granted" or "Denied" on the  
27 application and date and sign such notation.  
28

1                   2. If the application for a non-performer license is denied, the Clerk  
2 shall attach to the application a statement of the reasons for the denial. Such notice  
3 shall also provide that the applicant may appeal the denial to a designated hearing  
4 officer who will be selected as provided for in County Code Section 12.2700 et seq.  
5 The designated hearing officer shall conduct a hearing as described in Section  
6 41.2905.

7           G.     Failure of the Clerk or his/her designee to render a decision on the  
8 application within the time frames established by this section shall be deemed to  
9 constitute an approval of the non-performer license.

10          H.     Each license holder must annually renew his/her license with the Clerk or  
11 his/her designee by a written application for a license renewal. If said application  
12 conforms to the previously approved application and there has been no change with  
13 respect to the applicant having been convicted of any crime classified by this or any  
14 other state as a sex related offense, the Clerk or his/her designee shall renew the  
15 applicant's availability for work in an adult business during regular business hours for  
16 one (1) year. The renewal application shall be made at least thirty (30) days before the  
17 expiration date of the license. Applications for renewal shall be acted upon as  
18 provided herein for action upon an initial application for a non-performer license. The  
19 Clerk's denial of a renewal application is subject to the provisions of Section 41.2905.

20 **41.2905     Revocation/Suspension/Denial of Adult-oriented Business Non-**  
21 **performer License.**

22          A.     On determining that grounds exist to deny an original or renewal  
23 application for a non-performer license, or suspend or revoke an existing license, the  
24 Clerk or his/her designee shall furnish written notice of the proposed action to the  
25 applicant.

26          B.     The decision of the Clerk to deny, suspend or revoke a non-performer  
27 license shall be appealable to the an appointed hearing officer by filing a written  
28 request for a hearing with the Clerk within fifteen (15) days following the day of mailing

1 of the Clerk's decision and paying the fee for appeals provided under this Code. All  
2 such appeals shall be filed with the Clerk and shall be public records. The Clerk shall  
3 issue a notice which shall set forth the time and place of a hearing before an appointed  
4 hearing officer which is within thirty (30) days from the date the appeal was filed and  
5 the ground or grounds upon which the hearing is based, the pertinent San Bernardino  
6 County Code sections, and a brief statement of the factual matters in support thereof.  
7 The notice shall be mailed, postage prepaid, addressed to the last known address of  
8 the applicant or shall be delivered to the applicant personally, at least ten (10) days  
9 prior to the hearing date.

10 C. At the hearing the applicant shall have the right to offer testimonial,  
11 documentary, and tangible evidence bearing upon the issues and may be represented  
12 by counsel. The hearing officer shall not be bound by the formal rules of evidence.  
13 Any hearing under this section may be continued for a reasonable time for the  
14 convenience of a party or a witness at the request of the applicant. Extensions of time  
15 or continuances sought by an applicant/appellant shall not be considered delay on the  
16 part of the County or constitute failure by the County to provide for prompt decisions  
17 on denial of a non-performer license.

18 D. The application of a non-performer to work in an adult business may be  
19 revoked, based on any of the following causes arising from the acts or omissions of  
20 the applicant:

21 1. The applicant has made any false, misleading, or fraudulent  
22 statement of material fact in the application for work as a non-performer in an adult  
23 business during regular business hours.

24 2. The applicant has pled guilty, pled nolo contendere or been  
25 convicted of an offense classified by this or any other state as a sex related offense  
26 and (a) less than two (2) years have elapsed since the date of conviction or the date of  
27 release from confinement for the conviction to the date of application, whichever is the  
28 later date, if the conviction is a misdemeanor, or (b) less than five (5) years have

1 elapsed since the date of conviction or the date of release from confinement for the  
2 conviction to the date of application, whichever is the later date, if the conviction is a  
3 felony; or (c) less than five (5) years have elapsed since the date of the last conviction  
4 or the date of release from confinement for the conviction to the date of application,  
5 whichever is the later date, if the convictions are two or more misdemeanors or  
6 combination of misdemeanor offenses occurring within any twenty-four (24) month  
7 period.

8           3. Failure to comply with the operating standards of Chapter 84.02 or  
9 the requirements of this chapter.

10           E. After holding the hearing in accordance with the provisions of this  
11 section, if the hearing officer finds and determines that there are grounds to deny,  
12 revoke or suspend a non-performer license, the hearing officer shall deny or revoke  
13 the license. After holding the hearing in accordance with the provisions of this section  
14 on renewal of a non-performer license, the hearing officer shall decide to sustain the  
15 decision, modify the decision or order the decision stricken and issue such order as the  
16 hearing officer finds is supported by the entire record. The hearing officer shall render  
17 a written decision that shall be hand delivered or overnight mailed to the applicant and  
18 any adult-oriented business that the applicant has identified on his/her application  
19 within four (4) working days of the hearing. The hearing officer's failure to render such  
20 a decision within this time frame shall constitute approved renewal of the applicant's  
21 non-performer license.

22           F. If an application is denied pursuant to this section, the applicant may  
23 reapply for managerial work with an adult-oriented business twelve (12) months after  
24 the date of such denial.

25           G. The decision of the hearing officer shall be final and no further  
26 administrative appeal is available.

27 **41.2906      Violations.**

1 A.Any license holder violating or causing the violation of any of these  
2 provisions regulating Adult-oriented Business Non-performer Licenses shall be subject  
3 to license revocation/suspension pursuant to Section 41.2905 above, a fine of not  
4 more than one thousand dollars (\$1,000.00) pursuant to Government Code §§ 36900  
5 and 36901, and any and all other civil remedies. All remedies provided herein shall be  
6 cumulative and not exclusive. Any violation of these provisions shall constitute a  
7 separate violation for each and every day during which such violation is committed or  
8 continued.

9 B.In addition to the remedies set forth in Section 41.2904, any violation of  
10 any of these provisions regulating Adult-oriented Business Non-performer Licenses is  
11 hereby declared to constitute a public nuisance and may be abated or enjoined.

12 C. The restrictions imposed pursuant to this section are part of a regulatory  
13 licensing process, and do not constitute a criminal offense. Notwithstanding any other  
14 provision of the San Bernardino County Code, the County does not impose a criminal  
15 penalty for violations of the provisions of this ordinance related to sexual conduct or  
16 activities.

17 **41.2907 Regulations Non-exclusive.**

18 The provisions of this chapter regulating adult business non-performer  
19 employment applications are not intended to be exclusive, and compliance therewith  
20 shall not excuse non-compliance with any other regulations pertaining to the adult  
21 business licensing provisions as adopted by the County Board of Supervisors.

22 **41.2908 Severability.**

23 This Chapter and each section and provision of said Chapter hereunder, are hereby  
24 declared to be independent divisions and subdivisions and, notwithstanding any other  
25 evidence of legislative intent, it is hereby declared to be the controlling legislative intent  
26 that if any provisions of said Chapter, or the application thereof to any person or  
27 circumstance is held to be invalid, the remaining sections or provisions and the  
28 application of such sections and provisions to any person or circumstances other than

those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Chapter.

SECTION 6. Section 84.02 of the San Bernardino County Code is amended to read:

## **Chapter 84.02      ADULT-ORIENTED BUSINESSES**

### **Sections:**

**84.02.010      Purpose.**

**84.02.020      Definitions.**

**84.02.030      Location of adult businesses.**

**84.02.040      Establishment of an Adult-Oriented Business.**

**84.02.050      Operating Standards.**

### **84.02.010      Purpose.**

It is the purpose and intent of this chapter of the County Code to regulate the operations of adult businesses, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of adult businesses; degradation of the unincorporated County's commercial and industrial base; increases in vacancies in residential areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of adult businesses as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of adult businesses while at the same time protecting the First Amendment rights of those individuals who desire to own, operate or patronize adult businesses.

### **84.02.020      Definitions.**

1 The words and phrases included in this chapter shall employ the Definitions  
2 found in Subsection 810.01.030(I) of the Development Code, entitled "Adult-oriented  
3 Business" unless otherwise stated or if it is clearly apparent from the context that  
4 another meaning is intended. In addition to those definitions, the following definitions  
5 shall apply to this chapter:

6 A. "Park" shall mean a non-commercial publicly owned area of land operated  
7 by San Bernardino County, or a city or special district within the County that is  
8 developed for active or passive recreation, providing features such as open grassy  
9 areas, sports and play fields, courts, gymnasiums, playgrounds, and picnic areas. Not  
10 included are trails, nature preserves, or privately owned recreation facilities developed  
11 to offer recreation to paying customers.

12 B. "School" shall mean any child or day care facility, or an institution of  
13 learning for minors, whether public or private, offering instruction in those courses of  
14 study required by the California Education Code and maintained pursuant to standards  
15 set by the State Board of Education. This definition includes nursery school,  
16 kindergarten, elementary school, middle or junior high school, senior high school, or  
17 any special institution of education, but it does not include a vocational or professional  
18 institution of higher education, including a community or junior college, college, or  
19 university.

20 **84.02.030 Location and Buffer Requirements.**

21 A. Adult-oriented businesses shall only be established in the General  
22 Commercial (CG) or Community Industrial (IC) land use zoning districts and shall be  
23 subject to the location and design standards specified by this Chapter, and the  
24 approval of an Adult-oriented Business Regulatory Permit in compliance with 85.21  
25 (Adult-oriented Business Regulatory Permit).

26 B. **Required separation distance from other uses.** An adult-oriented  
27 business shall not be established or located within:  
28

- 1                   1.     500 feet of the following:
- 2                         a. Any county land use zoning district that contains the words
- 3 "Residence" or "Residential" within its title.
- 4                         b.     Any place of worship as defined in 810.01.170.
- 5                         c.     Any school as defined in 84.02.020.
- 6                         d.     Any park.
- 7                   2.     250 feet of the following:
- 8                         a. any residential use located within a County land use zoning
- 9 district that contains the words "Rural Living"
- 10                        b.     any residential use located within the IC land use zoning
- 11 district.
- 12           C.     **Separation of adult-oriented businesses.** An adult-oriented business
- 13 shall not be established or located within 1,000 feet of an existing adult-oriented
- 14 business. If two or more existing adult-oriented business are located in closer
- 15 proximity to each other than 1,000 feet, then in determining which of the businesses is
- 16 or are nonconforming, preference shall be given in the order of the respective lengths
- 17 of continuous uninterrupted operation of the businesses.
- 18           D.     **Distance measurement.** For the purposes of this Chapter, distances
- 19 shall be measured in a straight line, without regard to intervening structures, from the
- 20 nearest point of the parcel on which the adult-oriented business is or will be located to
- 21 the nearest property line of a land use or land use zoning district described in
- 22 Subsection (a) of this section, or to the nearest point of the structure in which an adult-
- 23 oriented business described in Subsection (b), of this section, is located.
- 24 **84.02.040     Establishment of an Adult-Oriented Business.**
- 25           "Establishment of an adult business" shall mean any of the following:
- 26                   1.     The opening or commencement of any "adult business" as a new
- 27 business;
- 28

1           2. The conversion of an existing business, whether or not an “adult  
2 business,” to any “adult business;”

3           3. The addition of any “adult business” to any other existing “adult  
4 business;”

5           4.     The relocation of any “adult business;” or

6           5. Physical changes that expand the square footage of an existing  
7 “adult business” by more than ten percent (10%).

8 **84.02.050   Operating Standards.**

9           **A. Hours of Operation.** It shall be unlawful for any owner, operator,  
10 manager, employee or independent contractor of an adult-oriented business to allow  
11 such adult-oriented business to remain open for business, or to license any employee  
12 to engage in a performance, solicit a performance, make a sale, solicit a sale, provide  
13 a service, or solicit a service, between the hours of 2:00 a.m. and 6:00 a.m. of any day,  
14 excepting here from an “adult hotel/motel.”

15           **B.     On-site manager.** All adult-oriented businesses shall have a responsible  
16 person who shall be at least 18 years of age and shall be on the premises to act as  
17 manager at all times during which the business is open. No performer may serve as  
18 the manager. The individual(s) designated as the on-site manager shall obtain an  
19 Adult-oriented Business Non-performer License in compliance with Chapter 29 of  
20 Division 1 of Title 4 of the County Code, shall provide his/her name to the County  
21 Sheriff to receive all complaints and shall be given by the owner and/or operator the  
22 responsibility and duty to address and immediately resolve all violations taking place  
23 on the premises.

24           **C.     Regulation of adult booth/individual viewing area.**

25           1.     No adult booth/individual viewing area shall be occupied by more  
26 than one individual at a time.

27           2.     Each adult booth/individual viewing area within the adult business  
28 shall be visible from a continuous and accessible main aisle in a public portion of the

1 establishment, and shall not be obscured by any door, curtain, wall, two-way mirror or  
2 other device which would prohibit a person from seeing the entire interior of the adult  
3 booth/individual viewing area from the main aisle. Any adult business may have more  
4 than one manager station in order to ensure compliance with this regulation. At all  
5 times, the manager station(s) shall be maintained to ensure a clear line of sight into  
6 the interior of the adult/booth individual viewing area. Further, no one shall maintain  
7 any adult booth/individual viewing area in any configuration unless the entire interior  
8 wherein the picture or entertainment that is viewed is visible from the manager  
9 station(s). The entire body of any patron in any adult booth/individual viewing area  
10 must be visible from the main aisle and the manager station(s) without the assistance  
11 of mirrors or any other device.

12 3. No doors are permitted on an adult booth/individual viewing area.  
13 No partially or fully enclosed adult booth/individual viewing areas or partially or fully  
14 concealed adult booth/individual viewing areas shall be maintained.

15 4. No holes or other openings shall be permitted between adult  
16 booths/individual viewing areas. Any such hole or opening shall be repaired within  
17 twenty-four (24) hours using "pop" rivets to secure metal plates over the hole or  
18 opening to prevent patrons from removing the metal plates.

19 5. No beds, couches or chairs with a sitting area greater than twenty-  
20 four inches (24") wide shall be permitted in an adult booth/individual viewing area.

21 D. **Interior of premises/screening.** No exterior door or window on the  
22 premises of an adult-oriented business shall be propped or kept open at any time while  
23 the business is open and any exterior windows shall be covered with opaque coverings  
24 at all times.

25 E. **Displays of adult-oriented materials.** All signs or structures,  
26 advertisements, displays, or other promotional materials characterized or distinguished  
27 on matters describing or relating to "specified sexual activities" or "specified anatomical  
28

1 areas,” as defined in this Code, shall be completely screened from public view as  
2 viewed from adjacent sidewalks or public rights-of-way.

3       **F. Signs.** All adult-oriented businesses shall comply with the following sign  
4 requirements, in addition to those provided elsewhere in this Code. Should a conflict  
5 exist between the requirements of other provisions of the Code and this subsection,  
6 the more restrictive shall prevail. If an adult-oriented business does not serve alcohol,  
7 it shall post a notice prior to entry to the area of public assembly and within ten feet of  
8 every entrance used by customers for access to the establishment, stating that  
9 persons below the age of 18 years of age are prohibited from entering onto the  
10 premises or within the confines of the adult-oriented business. This notice shall be  
11 posted on a wall in a place of prominence. The dimensions of the notice shall be no  
12 less than six inches by six inches, with a minimum typeface of 25 points. If the adult-  
13 oriented business serves alcohol, it shall comply with all notice and posting  
14 requirements of the Alcoholic Beverage Control Department.

15       **G. Exterior lighting requirements.** All exterior areas, including parking  
16 lots, of the adult-oriented business shall be illuminated at a minimum of 1.50 foot  
17 candle, maintained and evenly distributed at ground level with appropriate devices to  
18 screen, deflect or diffuse the lighting in such manner as to prevent glare or reflected  
19 light from creating adverse impacts on adjoining and nearby public and private  
20 properties and to avoid light pollution. Inoperable and/or broken lights shall be  
21 replaced within 24 hours.

22       **H. Interior lighting requirements.** All interior areas of the adult-oriented  
23 business, excepting therefrom adult hotels/motels, shall be illuminated at a minimum of  
24 1.00 foot candle, maintained and evenly distributed at floor level. Inoperable and/or  
25 broken lights shall be replaced within 24 hours, excepting here from an “adult  
26 hotel/motel.”

27       **I. Regulation of public restroom facilities.** All restrooms available for  
28 patron use shall be separated facilities for male and female patrons. The restrooms

1 shall be free from adult-oriented material. Only one person shall be allowed in each  
2 restroom at any time, unless otherwise required by law, in which case the adult-  
3 oriented business shall employ a restroom attendant of the same sex as the restroom  
4 users who shall be present in the public portion of the restroom during operating hours.  
5 The attendant shall ensure that no person of the opposite sex is permitted into the  
6 restroom, and that not more than one person is permitted to enter a restroom stall,  
7 unless otherwise required by law, and that the restroom facilities are used only for their  
8 intended sanitary purposes. Access to restrooms for patron use shall not require  
9 passage through an area used as a dressing area by performers.

10 J. **Trash.** All interior trash cans shall be emptied into a single locked trash  
11 bin lined with a plastic bag or with individually bagged trash at least once a day. At  
12 least four times a day, the front and rear exteriors of any adult-oriented business,  
13 along with the parking lot, shall be inspected for trash and debris and any trash and  
14 debris found shall be immediately removed and placed into a single locked trash bin  
15 lined with a plastic bag.

16 K. **Adult-oriented business offering adult live entertainment - additional**  
17 **operating requirements.** The following additional requirements shall apply to adult-  
18 oriented businesses providing adult live entertainment:

19 1. No person shall perform adult live entertainment for patrons of an  
20 adult-oriented business except upon a permanently fixed stage at least 18 inches  
21 above the level of the floor, and surrounded with a three foot high barrier or by a fixed  
22 rail at least 30 inches in height. No patron shall be permitted on the stage while the  
23 stage is occupied by a performer(s) and/or adult cabaret dancer(s). This provision shall  
24 not apply to an individual viewing area where the performer is completely separated  
25 from the area in which the performer is viewed by an individual by a permanent, floor  
26 to ceiling, solid barrier.

27 2. No performer or adult cabaret dancer shall be within six feet (6') of  
28 a patron, measured horizontally, while the performer or adult cabaret dancer is

1 performing adult live entertainment. While on stage, no performer or adult cabaret  
2 dancer shall have physical contact with any patron, and no patron shall have physical  
3 contact with any performer or adult cabaret dancer.

4 3. As to off stage performances, no performer or adult cabaret  
5 dancer shall perform "adult live entertainment" off stage. As to an adult cabaret dancer  
6 performing off stage, a distance of at least six feet shall be maintained between the  
7 adult cabaret dancer and the patron(s) at all times. During off stage performances, no  
8 adult cabaret dancer shall have physical contact with any patron, and no patron shall  
9 have physical contact with any adult cabaret dancer.

10 4. While on the premises, no performer or adult cabaret dancer shall  
11 have physical contact with a patron and no patron shall have physical contact with a  
12 performer or adult cabaret dancer, which physical contact involves the touching of the  
13 clothed or unclothed genitals, pubic area, buttocks, cleft of the buttocks, perineum,  
14 anal region, or female breast with any part or area of any other person's body either  
15 before or after any adult live entertainment or off-stage performances by such  
16 performer or adult cabaret dancer. Patrons shall be advised of the no touching  
17 requirements by signs and, if necessary, by employees of the establishment. This  
18 prohibition does not extend to incidental touching.

19 5. Patrons shall be advised of the separation and no touching  
20 requirements by signs conspicuously displayed and placed on the barrier between  
21 patrons and performers and utilizing red or black printing of letters not less than one  
22 inch in size. If necessary, patrons shall also be advised of the separation and no  
23 touching requirements by employees of the establishment.

24 6. All employees of the adult-oriented facility, except therefrom  
25 performers while performing on the fixed stage, while on or about the premises or  
26 tenant space, shall wear at a minimum an opaque covering which covers their  
27 specified anatomical areas.  
28

1                   7. Patrons shall not throw money to performers, place monies in the  
2 performers' costumes or otherwise place or throw monies on the stage. If patrons wish  
3 to pay or tip performers, payment or tips may be placed in containers. Patrons shall be  
4 advised of this requirement by signs conspicuously displayed and placed on the barrier  
5 between patrons and performers and utilizing red or black printing of letters not less  
6 than one inch in size. If necessary, patrons shall also be advised of the tipping and  
7 gratuity requirements by employees of the adult-oriented business.

8                   8. The adult-oriented business shall provide dressing rooms for  
9 performers, that are separated by gender and exclusively dedicated to the performers'  
10 use and which the performers shall use. Same gender performers may share a  
11 dressing room. Patrons shall not be permitted in dressing rooms.

12                  9. The adult-oriented business shall provide an entrance/exit to the  
13 establishment for performers that is separate from the entrance/exit used by patrons,  
14 which the performers shall use at all times.

15                  10. The adult-oriented business shall provide access for performers  
16 between the stage and the dressing rooms that is completely separated from the  
17 patrons. If such separate access is not physically feasible, the adult-oriented business  
18 shall provide a minimum three foot wide walk aisle for performers between the  
19 dressing room area and the stage, with a railing, fence or other barrier separating the  
20 patrons and the performers capable of (and which actually results in) preventing any  
21 physical contact between patrons and performers and the patrons must also be three  
22 feet away from the walk aisle. Nothing in this section is intended to exempt the adult-  
23 oriented business from compliance with the provisions of Title 24 of the California  
24 Code of Regulations pertaining to handicapped accessibility.

25                  11. All adult-oriented businesses featuring live entertainment shall  
26 employ security guards in order to maintain the public peace and safety, based upon  
27 the following standards:  
28

1 a. Provide at least one security guard at all times while the  
2 business is open.

3 b. If the occupancy limit of the premises is greater than 21  
4 persons, an additional security guard shall be on duty.

5 c. Security guard(s) shall be charged with preventing  
6 violations of law and enforcing compliance by patrons with the requirements of these  
7 regulations. Security guard(s) shall be uniformed in such a manner so as to be readily  
8 identifiable as a security guard by the public and shall be duly licensed and bonded as  
9 a security guard as required by applicable provisions of state law. No security guard  
10 required pursuant to this subsection shall act as a door person, ticket seller, ticket  
11 taker, admittance person, or sole occupant of the manager's station while acting as a  
12 security guard.

13 d. Between the hours of 8:00 p.m. and 30 minutes after the  
14 established closing time of the facility, security guard(s) shall regularly patrol the  
15 parking lot and adjacent outdoor areas of the facility to maintain order therein and  
16 prevent any illicit or nuisance activity.

17 e. Security guard(s) shall be regularly posted at the doors  
18 used by the performers when said doors are in use.

19 f. The adult-oriented business shall provide a security system  
20 that visually records and monitors all parking lot areas as well as all entrances and  
21 exits to or from the facility. The recordings shall have sufficient definition/fidelity to  
22 allow for identification of persons entering or exiting the premises. These recordings  
23 shall be retained on site for 30 days and shall be made available within 24 hours if  
24 requested by a member of the County Sheriff's Department for a legitimate law  
25 enforcement purpose.

26 L. **Adult motion picture theater additional operating requirements.** The  
27 following additional requirements shall apply to adult motion picture theaters:  
28

1           1. If the theater contains a hall or auditorium area, the area shall  
2 comply with each of the following provisions:

3           a. Have individual, separate seats, not couches, benches, or  
4 the like, to accommodate the maximum number of persons who may occupy the hall or  
5 auditorium area;

6           b. Have a continuous main aisle alongside the seating areas  
7 in order that each person seated in the hall or auditorium area shall be visible from the  
8 aisle at all times; and

9           c. Have a sign posted in a conspicuous place at or near each  
10 entrance to the hall or auditorium area which lists the maximum number of persons  
11 who may occupy the hall or auditorium area, which number shall not exceed the  
12 number of seats within the hall or auditorium area.

13       M.   Employment of and services rendered to persons under the age of 18  
14 years is prohibited; 21 if liquor is served.

15           1.   Employees/independent contractors. Employees and independent  
16 contractors of an adult business must be at least eighteen (18) years of age. It shall  
17 be unlawful for any owner, operator, manager, partner, director, officer, shareholder  
18 with a ten percent (10%) or greater interest, employees, or other person in charge of  
19 any adult business to employ, contract with, or otherwise retain any services in  
20 connection with the adult business with or from any person who is not at least eighteen  
21 (18) years of age. If liquor is served at the adult business, employees and  
22 independent contractors of the adult business must be at least twenty-one (21) years  
23 of age. If liquor is served at the adult business, it shall be unlawful for any owner,  
24 operator, manager, partner, director, officer, shareholder with a ten percent (10%) or  
25 greater interest, employee, or other person in charge of any adult business to employ,  
26 contract with, or otherwise retain any services in connection with the adult business  
27 with or from any person who is not at least twenty-one (21) years of age. And said  
28

1 persons shall exercise reasonable care in ascertaining the true age of persons seeking  
2 to contract with, be employed by, or otherwise service the adult business.

3           2. Patrons. Patrons of an adult business must be at least eighteen  
4 (18) years of age. It shall be unlawful for any owner, operator, manager, partner,  
5 director, officer, shareholder with a ten percent (10%) or greater interest, employee,  
6 independent contractor, or other person in charge of any adult business to permit to  
7 enter or remain within the adult business any person who is not at least eighteen (18)  
8 years of age. If liquor is served at the adult business, patrons must be at least  
9 twenty-one (21) years of age. If liquor is served at the adult business, it shall be  
10 unlawful for any owner, operator, manager, partner, director, officer, shareholder with a  
11 ten percent (10%) or greater interest, employee, independent contractor, or other  
12 person in charge of any adult business to permit to enter or remain within the adult  
13 business any person who is not at least twenty-one (21) years of age. And said  
14 persons shall exercise reasonable care in ascertaining the true age of persons  
15 entering the adult business.

16           N. **X-rated movies.** The selling, renting and/or displaying of x-rated movies,  
17 videotapes, digital video discs (DVDs), compact discs CDs) and laser discs shall be  
18 restricted to persons over 18 years of age. If an establishment that is not otherwise  
19 prohibited from providing access to the establishment to persons under 18 years of  
20 age sells, rents, or displays movies, videos, DVDs, CDs or laser discs that have been  
21 rated "X" or rated "NC-17" by the motion picture rating industry (Motion Picture  
22 Association of America or "MPAA"), or which have not been submitted to the MPAA for  
23 a rating, and which consist of images that are distinguished or characterized by an  
24 emphasis on depicting or describing specified sexual activities or specified anatomical  
25 areas, said movies, videos, DVDs, CDs, and laser discs shall be located in a specific  
26 section of the establishment where these items are not visible to persons under the  
27 age of 18 and from which persons under the age of 18 shall be prohibited.

28           O. **Inspections.** Each owner, operator, manager, employee or independent

contractor of an adult business or other person in charge of an adult business shall permit representatives of the Sheriff's department, health department, fire department, community development department, business license division and other County departments, to inspect the adult business for the purpose of insuring compliance with the laws and operating standards applicable to adult businesses at any time it is occupied or open for business. Such inspections shall be conducted in a reasonable manner.

SECTION 7. The Recreation, Education & Public Assembly Section of Table 82-11 of Section 82.05.040 is amended to read:

### **82.05.040 Commercial Land Use Zoning District Allowed Uses and Permit Requirements**

**Table 82-11  
Allowed Land Uses and Permit Requirements for  
Commercial Land Use Zoning Districts**

LAND USE <i>See Division 10 (Definitions) for land use definitions</i>	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	CR	CN	CO	CG	CS	CH	
<b>RECREATION, EDUCATION &amp; PUBLIC ASSEMBLY</b>							
Adult-oriented business	—	—	—	ABP	—	—	84.02; 85.21
Campgrounds	—	—	—	—	—	—	
Commercial entertainment – Indoor	P (2)	P (2)	—	P (2)	P (2)	P (2)	
Commercial entertainment - Outdoor	P (2)	—	—	P (2)	P (2)	P (2)	
Conference/convention facility (5, 6)	M/C	—	M/C	M/C	M/C	M/C	
Equestrian facility	M/C	—	M/C	M/C	M/C	M/C	
Fitness/health facility (6)	P (2)	P (2)	—	P (2)	P (2)	P (2)	
Golf course	M/C	—	—	—	M/C	M/C	
Library, museum, art gallery, outdoor exhibit (6)	M/C	—	—	M/C	M/C	M/C	
Meeting facility, public or private (6)	CUP	CUP	CUP	CUP	CUP	CUP	
Park, playground	M/C	—	—	—	—	—	
Places of worship	CUP	CUP	CUP	CUP	CUP	CUP	
Recreational vehicle park	M/C	—	—	—	M/C	M/C	
Rural sports and recreation (6, 7)	CUP	—	—	—	CUP	CUP	
School - College or university	M/C	—	M/C	M/C	M/C	M/C	
School - Private (6, 7.)	M/C	—	M/C	M/C	M/C	M/C	
School - Specialized education/training (6)	M/C	—	M/C	M/C	M/C	M/C	
Sports or entertainment assembly (6)	CUP	—	—	CUP	CUP	CUP	
Theater	M/C	—	—	M/C	M/C	M/C	
<b>KEY</b>							
A Allowed use (no planning permit required)	PD Planned Development Permit required (Chapter 85.10)						
ABP Adult-oriented Business Regulatory Permit	SUP Special Use Permit required (Chapter 85.14)						
P Permitted Use; Site Plan Permit required (Chapter 85.08)	S Permit requirement set by Specific Use Regulations (Division 4)						
M/C Minor Use Permit required; unless a Conditional Use	TSP Temporary Special Events Permit required (Chapter 85.16)						

	Permit required in compliance with Section 85.06.050 (Projects That Do Not Qualify for a Minor Use Permit)		
CUP	Conditional Use Permit required (Chapter 85.06)	TUP	Temporary Use Permit required (Chapter 85.15)
MUP	Minor Use Permit required (Chapter 85.06)	—	Use not allowed

**Notes:**

- (1) Not allowed in the Phelan planning area.
- (2) CUP required if maximum building coverage exceeds 10,000 sq. ft., the use will have more than 20 employees per shift, or if not exempt from CEQA; may qualify for a MUP in compliance with Section 85.06.020 (Applicability).
- (3) The use shall be allowed in Lucerne Valley with a Site Plan Permit.
- (4) Use allowed as an accessory use only, on the same site as a retail, service, or industrial use allowed by this table.
- (5) The use is allowed in Lucerne Valley with a MUP.
- (6) A MUP shall not be allowed if the use requires more than 200 parking spaces.
- (7) May require a General Plan Amendment to Institutional (IN) Land Use Zoning District.

SECTION 8. The Recreation, Education & Public Assembly Section of Table 82-17 of Section 82.06.040 is amended to read:

### **82.06.040 Industrial and Special Purpose Land Use Zoning District Allowed Uses and Permit Requirements**

**Table 82-17  
Allowed Land Uses and Permit Requirements  
for Industrial and Special Purpose Land Use Zoning Districts**

LAND USE		PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
		IC	IR	IN	SD-RES <sup>(6)</sup>	SD-COM <sup>(6)</sup>	SD-IND <sup>(6)</sup>	
<i>See Division 10 (Definitions) for land use definitions</i>								
<b>RECREATION, EDUCATION &amp; PUBLIC ASSEMBLY</b>								
Adult-oriented business	ABP	—	—	—	—	—	—	
Campgrounds		—	—	—	CUP	—	—	
Commercial entertainment - Indoor	M/C	—	—	—	M/C	M/C	M/C	
Conference/convention facility		—	—	—	CUP <sup>(3)</sup>	CUP <sup>(3)</sup>	CUP <sup>(3)</sup>	
Equestrian facility		—	—	—	M/C	M/C	M/C	
Fitness/health facility	P <sup>(5)</sup>	P <sup>(5)</sup>	—	—	M/C	M/C	M/C	
Golf course		—	—	—	CUP <sup>(3)</sup>	CUP <sup>(3)</sup>	CUP <sup>(3)</sup>	
Library, museum, art gallery, outdoor exhibit		—	—	—	M/C	M/C	M/C	
Meeting facility, public or private	CUP	—	—	—	CUP	CUP	CUP	
Park, playground		—	—	P	P	P	P	
Places of worship	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Rural sports and recreation		—	—	—	CUP	CUP	CUP	
School - College or university	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	
School - Private	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	M/C <sup>(4)</sup>	
School - Specialized education/training	M/C	M/C	M/C	M/C	M/C	M/C	M/C	
<b>KEY</b>								
A	Allowed use (no planning permit required)	PD	Planned Development Permit required (Chapter 85.10)					
ABP	Adult-oriented Business Regulatory Permit	SUP	Special Use Permit required (Chapter 85.14)					
P	Permitted Use; Site Plan Permit required (Chapter 85.08)	S	Permit requirement set by Specific Use Regulations (Division 4)					
M/C	Minor Use Permit required; unless a Conditional Use Permit required in compliance with Section 85.06.050 (Projects That Do Not Qualify for a Minor Use Permit)	TSP	Temporary Special Events Permit required (Chapter 85.16)					
CUP	Conditional Use Permit required (Chapter 85.06)	TUP	Temporary Use Permit required (Chapter 85.15)					
MUP	Minor Use Permit required (Chapter 85.06)	—	Use not allowed					

**Notes:**

- (1) Use allowed as an accessory use only, on the same site as a retail, service, or industrial use allowed by this table. Requires a Special Use Permit when recreational vehicles are used for seasonal operations.
- (2) Use allowed as an accessory use only, on the same site as a residential use allowed by this table.
- (3) PD permit required if total floor area of all structures or use area exceeds 10,000 sf.
- (4) May require a General Plan Amendment to Institutional (IN) Land Use Zoning District.
- (5) CUP required if maximum building coverage exceeds 10,000 sq. ft., the use will have more than 20 employees per shift, or if not exempt from CEQA; may qualify for a MUP in compliance with Section 85.06.020 (Applicability).
- (6) The Special Development Land Use Zoning District may have a suffix to indicate the focus of a particular SD zone. A "RES" suffix indicates that the focus is on residential Planned Development projects. A "COM" suffix indicates that the focus is on commercial Planned Development projects. An "IND" suffix indicates that the focus is on industrial Planned Development projects. However, all can still have mixed uses within these zones.

SECTION 9. Table 85-1 of Chapter 85.01.030 of the San Bernardino County Code is amended to read:

**85.01.030 Authority for Land Use and Zoning Decisions**  
**TABLE 85-1**  
**REVIEW AUTHORITY**

Type of Entitlement or Decision	Applicable Citation	Director (1) (2)	Planning Commission (3)	Board of Supervisors (4)
ABC Licensing	Ch. 85.04	Issue	Appeal <sup>(5)</sup>	Appeal
Adult-oriented Business Regulatory				
Permit	Ch. 84.21	Recommend	Approve	Appeal
Amendments (General Plan, Development Code, Community Plan, and Area Plan)	Ch. 86.12	Recommend	Recommend	Approve
Airport Comprehensive Land Use				
Plan and Amendments	Ch. 86.11	Recommend	Recommend	Approve
Certificates of Land Use				
Compliance	Ch. 85.05	Issue	Appeal	Appeal
Conditional Use Permits	Ch. 85.06	Recommend	Approve / Recommend	Approve / Appeal
Development Agreements and				
Amendments	Ch. 86.13	Recommend	Recommend	Approve
Home Occupation Permits	Ch. 84.12	Approve	Appeal	—
Housing Incentives				
Program <sup>(6)</sup>	Ch. 83.03	Recommend	Recommend	Approve
Interpretations	Ch. 81.02	Issue	Appeal	Appeal
Major Variances	Ch. 85.17	Approve	Appeal	—
Minor Use Permits	Ch. 85.06	Approve	Appeal	Appeal
Minor Variances	Ch. 85.17	Approve	Appeal	—
Planned Development Permits	Ch. 85.10	Recommend <sup>(10)</sup>	Recommend	Approve
Revisions to an Approved Actions	Ch. 85.12	Approve	Appeal	Appeal
Sign Permits	Ch. 85.13	Issue	Appeal	Appeal
Sign Registration	Ch. 85.13	Issue <sup>(8)</sup>	Appeal	Appeal
Site Plan Permits	Ch. 85.08	Issue	Appeal	—
Special Use Permits	Ch. 85.14	Issue <sup>(7 or 8)</sup>	Appeal	Appeal
Specific Plans and Amendments	Ch. 86.14	Recommend <sup>(9)</sup>	Recommend	Approve
Subdivision Sign Location Plans	Ch. 85.13	Issue	Appeal	—
Surface Mining & Reclamation	Ch. 85.06	Recommend	Approve	Appeal
Temporary Special Event Permits	Ch. 85.15	Approve	Appeal	Appeal
Temporary Use Permits	Ch. 85.15	Issue <sup>(7 or 8)</sup>	Appeal	Appeal
Tenant Improvement Permits	Ch. 85.09	Issue <sup>(7)</sup>	Appeal	Appeal
Wind Energy Systems Permit	Ch. 85.18	Approve	Appeal	—

**Notes:**

- (1) The Director may defer action and refer any permit or approval application to the Commission for final determination.
- (2) All decisions of the Director are appealable to Commission, and then to the Board, in compliance with Division 11, Article 6 (Appeals), except for those decisions addressed in Note (3).
- (3) The Commission may refer consideration of an appeal to the Board, except for those decisions involving only a Variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit, an Accessory Wind Energy Permit, a Subdivision Sign Location Plan, or the requirement for preparation of an Environmental Impact Report (EIR). In these instances the Commission's decision shall be the final and conclusive decision. The Board will not accept nor consider an appeal of these Commission decisions.
- (4) All decisions of the Board are final.
- (5) "Recommend" means that the review authority makes a recommendation to a higher review authority; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier review authority, in compliance with Division 11, Chapter 8 (Appeals).
- (6) The Housing Incentives Program application shall only be filed concurrently with one of the following applications: Conditional Use Permit, Tentative Parcel Map, Tentative Tract, or Planned Development Permit.
- (7) Issued by the Building Official.
- (8) Issued by Code Enforcement.
- (9) Concurrent processing. Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or disapproved by the highest review authority designated by this Development Code for any of the required applications (e.g., a project with applications for both a Zoning Map amendment and a Conditional Use Permit shall have both applications decided by the Board, instead of the Commission acting on the Conditional Use Permit as otherwise provided by Table 85-1 [Review Authority]).
- (10) Initial review by the Development Review Committee is required in compliance with Section 85.10.040(a).

**SECTION 10.** Chapter 13 of Division 1 of Title 4 of the San Bernardino County Code is repealed.

**SECTION 11.** Chapter 27 is added to Division 1 of Title 4 of the San Bernardino County Code to read:

**Chapter 27 Adult-oriented Business Regulatory Permit**

**Sections:**

41.2701 Adult-oriented Business Regulatory Permit.

**41.2701 Adult-oriented Business Regulatory Permit.**

In order to establish and/or operate an adult-oriented business as defined in Subsection 810.01.030(l) of Chapter 810.01 of Division 10 of Title 8 [Development Code] of the San Bernardino County Code, the owner/operator must first receive an Adult-oriented Business Regulatory Permit issued pursuant to the provisions of Chapter 84.21 of Title 8 of the County Code.

**SECTION 12.** This ordinance shall become effective thirty (30) days after its adoption.

---

JANICE RUTHERFORD, Chair  
Board of Supervisors

1  
2 SIGNED AND CERTIFIED THAT A COPY OF THIS  
3 DOCUMENT HAS BEEN DELIVERED TO THE  
4 CHAIR OF THE BOARD

5 LAURA H. WELCH,  
6 Clerk of the Board of Supervisors  
7 of the County of San Bernardino  
8

9 STATE OF CALIFORNIA )  
10 ) ss.  
11 COUNTY OF SAN BERNARDINO )

12 I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San  
13 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
14 Supervisors of said County and State, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013  
15 at which meeting were present Supervisors:  
16 \_\_\_\_\_,

17 and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to  
18 wit: \_\_\_\_\_,

19 AYES:  
20 NOES:  
21 ABSENT:

22 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official  
23 seal of the Board of Supervisors this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

24 JEAN-RENE BASLE  
25 County Counsel

26 LAURA H. WELCH,  
27 Clerk of the Board of Supervisors of the  
28 County of San Bernardino,  
State of California

By: \_\_\_\_\_  
KENNETH C. HARDY  
Deputy County Counsel

\_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

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## **ATTACHMENT 2**

### **Adult-oriented Business Regulatory Permit Application**

## Attachment #2



# San Bernardino County

## Land Use Services Department, Planning Division

San Bernardino County Government Center  
385 N. Arrowhead Ave., San Bernardino, CA 92415-0182  
15900 Smoke Tree Street; Hesperia, CA 92345

San Bernardino Office – (909) 387-8311  
Fax (909) 387-3249

High Desert Office – (760) 995-8140  
Fax (760) 995-8167



## ADULT-ORIENTED BUSINESS REGULATORY PERMIT INFORMATION SHEET AND APPLICATION

The Adult-oriented Business Regulatory Permit (ABP) is required by the County Development Code to evaluate the location, design and operation for any adult-oriented business. Pursuant to of the County Development Code, adult-oriented businesses are only allowed within the General Commercial (CG) and the Community Industrial (IC) Land Use Districts subject to an approved ABP. These uses typically have characteristics which require special consideration in order to avoid conflicts with surrounding land uses.

Adult-oriented Business Regulatory Permits are considered by the Land Use Services Director using modified Public Hearing procedures set forth in Section 85.21.030 of the Development Code. Actions of the Planning Commission may be appealed to the Board of Supervisors within ten days following the date of the action. Appeals must be made by means of a separate application.

**Please use this information packet as a checklist to assemble the materials required for the submittal of your Adult-oriented Business Regulatory Permit and bring it with you when you submit your application. An appointment is not required to submit your application; however, appointments are available upon request. If you wish to schedule an appointment, please call one of the numbers listed above.**

### GENERAL PROCEDURES

1. Submit application and fees – County staff will use the checklist contained in this application packet to determine whether your application may be accepted. The County's standard Land Use Application shall be used and is contained in this packet.
2. Determination of Application Completeness – County staff will determine whether the materials you have submitted are adequate or if additional materials or reports are required. You will be notified in writing if any additional materials are required.
3. Environmental Determination – County staff will review the Environmental Determination Form submitted with this application to ensure the project is in compliance with the California Environmental Quality Act (CEQA). If the applicant cannot substantiate that the project meets all of the environmental operating standards, an Initial Study shall be required and additional fees and processing time will be necessary. If this is the case, it is through the Initial Study that the determination will be made as to what type of environmental determination will be required. If an Environmental Impact Report (EIR) is required, staff will contact you to explain the process and the costs.
4. Application processing – The project planner will have the project and materials reviewed by all appropriate County Departments and Agencies. Any required corrections, questions or revisions to the plans or other materials will be reviewed by the project planner and then provided to you.
5. Recommendations, conditions of approval and final report – The project planner will prepare these materials for consideration by the Planning Commission.

## **CHECKLIST OF SUBMITTAL MATERIALS**

Please use this checklist as you assemble the materials for the submittal of your application. County staff will use the checklist to determine whether your application is acceptable for submission. **If your submittal package does not contain all of the information listed below, your application will not be taken in and receipted for processing.** If you have any questions about the items requested or if you wish to obtain information on processing schedules, please call the Customer Service Unit at (909) 387-8311 or (760) 995-8140.

### **Section A – Fees**

1. \_\_\_\_\_ Check or money order made payable to “San Bernardino County” as set by the Board.

### **Section B - County Documents**

2. \_\_\_\_\_ **Two copies** of a completed Land Use Application Questionnaire, including the Environmental Determination Form. Only two copies of the application are required for the initial filing of this application. *Revisions may or may not be required. When Customer Service Unit staff determines that the application is complete, you will be required to submit additional copies of the application. The specific number of copies to be submitted will be determined at that time.*
3. \_\_\_\_\_ **One copy** of the completed Hazardous Waste Site Certification form contained in this packet.
4. \_\_\_\_\_ **Two copies** of the Adequate Service Certification for water and sewer service. Please use the forms (A, W1, W2, S1 and S2) at the end of this packet.

### **Section C – Other Documents**

5. \_\_\_\_\_ **Two copies** of a plot plan drawn at a scale to accurately delineate the proposed project as it is to be constructed. A conceptual plan is not acceptable. (Folded accordion style - 8" x 10 1/2" size.) (Refer to the Plot Plan Checklist for specific requirements.) *Only two copies of the plot plan are required for the initial filing of this application. Revisions may or may not be required. When Customer Service Unit staff determines that the plan is complete, you will be required to submit additional copies of the plot plan. The specific number of copies to be submitted will be determined at that time.*
6. \_\_\_\_\_ **One copy** of the plot plan reduced to 11" X 17".
7. \_\_\_\_\_ **One copy** of a “Letter of Intent” which specifically details the operation of the proposed adult-oriented business. Include hours of operation, number of employees, truck trips, and any other details that will accurately describe the business.
8. \_\_\_\_\_ **One copy** of a) the recorded Grant Deed or b) the Quit Claim Deed with the previous Grant Deed for each lot or parcel or c) a copy of a current Preliminary Title Report (issued within 60 days of filing). This requirement is not applicable for those businesses being sited in a rental facility. If the adult business is not to be operated by the owner of the property, the property owner(s) must still sign the Application Certificate indicating that he/she/they are aware and fully approve for this application to be filed and, if approved, for the business to be fully operational.
9. \_\_\_\_\_ **One certified copy** each, if applicable, of the Articles of Incorporation including the latest statement of officers; the Partnership Papers (limited or general); or the recorded Fictitious Business Name Statement naming the owner(s) of the firm, if either the Grantor or Grantee are Corporations, Partnerships, or Fictitious Firms. This requirement is not applicable for those businesses being sited in a rental facility.
10. \_\_\_\_\_ **One copy** of the trust agreement if a trustee is listed as the property owner.
11. \_\_\_\_\_ **One copy** of the appropriate Assessor’s map. This may be obtained from the Assessor’s Office.
12. \_\_\_\_\_ **One copy** of the United States Geological Survey (USGS) Map of the project area clearly showing project boundaries and labeled with the quadrangle map name and applicant’s name. A legible photocopy is acceptable. The USGS map may be purchased at a local blueprint company.
13. \_\_\_\_\_ **One copy** of any letter or document received from the County or other agency regarding this project.
14. \_\_\_\_\_ **One copy** of original color photos of the project site from various angles (digital photos on a disk/CD are preferred). Include a vicinity map indicating the location and direction of view.
15. \_\_\_\_\_ **Two copies** of a Water Quality Management Plan (WQMP) with a cover page that contains contact information for the project applicant and engineer. Detention basins shall be designed to closely conform to the natural topography. Native, drought-tolerant landscaping shall be required to maintain the natural aesthetic.

**Section D - Special Studies (if applicable)**

16. \_\_\_\_\_ **Three copies** of a Geologic Feasibility Study for any property in a Geologic Hazard (GH) Overlay District.
17. \_\_\_\_\_ **Four copies** of a Slope Analysis for any project in a Fire Safety Review Area (FS) Overlay District where grading is proposed.
18. \_\_\_\_\_ **Three copies** of any other studies prepared for this project.
19. \_\_\_\_\_ **Four copies** of any required traffic study. A **traffic study** can be required. A final determination will be made after submittal of the project.
20. \_\_\_\_\_ **Five copies** of any required Endangered Species Report and/or general Biological Study (Desert Tortoise, Mojave Ground Squirrel, Southern Rubber Boa, Delhi Sand Loving Fly, etc.).

**Section E – Public Notice Materials/Surrounding Property Owners Certification**

*Please refer to the sheet titled "Surrounding Property Owners Certification" for details regarding requirements and label format. This sheet also includes the required signature block for the person who prepared the information and labels. **The Mailing Labels should include the applicants' and representatives' mailing addresses.***

21. \_\_\_\_\_ **Two** adhesive sets *and* one reproducible copy of **mailing labels** for all property owners that own property within the following specified areas. The following are based on the project area being:
- \_\_\_\_\_ 20.0 acres or less: All parcels within 300 feet of the external boundaries of the project parcel.
- \_\_\_\_\_ 20.1 acres to 160 acres: All parcels within 700 feet of external boundaries of the project parcel.
- \_\_\_\_\_ 160.1 acres or greater: All parcels within 1,300 feet of the external boundaries of the project parcel.
22. \_\_\_\_\_ **One copy** of the certification sheet signed by the person who prepared the list and labels.
23. \_\_\_\_\_ **One copy** of a radius map showing all the Assessor's Parcels at the same scale and including the radius notification specified above based on parcel size.

**Section F – Additional Materials\***

Technical studies for traffic, drainage, noise, air quality, biotic resources, archeological resources, groundwater resources, hazardous materials, visual impact or other issues may be required to process your application. You will be notified if any additional materials will be required for the application.

**Section H – Plot Plan and Building Elevations:** Use the following checklist to be sure that your plans include all of the required elements. The plot plan is a drawing, to scale, on one sheet of paper (minimum size of 18" x 24") of the entire land parcel showing buildings, improvements, other physical features and all dimensions. Building elevations must be fully dimensioned and illustrate proposed structure(s) from all sides; the building drawings should also show each story of any multi-story building. Remember that the staff and Planning Commission are not familiar with the property and will need this information to evaluate your project. **If the plans are not legible or do not contain the information listed below, your application will be returned.**

1. \_\_\_\_\_ Official Stamp Area: A 4 inch by 14 inch area in the upper right hand side of the plot plan shall be left blank and labeled "Official Use Only".
2. \_\_\_\_\_ Plan Identification: The lower right hand corner of the plan shall contain the following information in this order: a) Assessor's Parcel Number(s) (APN:); b) application type *and proposed land use/building size* "Adult-oriented Business Regulatory Permit for \_\_\_\_\_" c) *the names, addresses and telephone numbers of the applicant, representative, recorded Property Owner(s) (if different from applicant), and plan preparer and d) plot plan preparation date and any revision date(s).*
3. \_\_\_\_\_ Utilities: Indicate names, address and telephone numbers of water company, sewage disposal, electric, gas, telephone, cable television. If no utility company, indicate method of supply.
4. \_\_\_\_\_ Legal Description: Complete legal description of the property including number of acres. Include APN. If a portion of a large parcel is being developed, include a detailed description of that portion.
5. \_\_\_\_\_ North Arrow: Indicate north (pointing to top or left hand side of the plan), date of drawing and the scale. Use an Engineer's Scale (1" to 10', 1" to 20', etc.)
6. \_\_\_\_\_ Dimensions: Show all property lines and dimensions. Also, show boundary lines of project with dimensions if only a portion of the property is being developed. *Property lines shall be shown as a solid, distinctive line. Entire property must be shown.*
7. \_\_\_\_\_ Roads/Easements: Indicate location, names, centerline, existing and proposed widths of boundary streets, and recorded road, utility, and drainage easements on the property. If none exist, indicate by a note that no easements exist. If property is not on a road or easement, show legal and physical access to property.
8. \_\_\_\_\_ Paving: Delineate edge of paving (if any) and indicate any existing curbs, driveways, and sidewalks. If no paving exists, indicate type of road (dirt, or gravel) and a note that curb and gutter and/or sidewalks do not exist. If paving does not exist, provide in a notation the distance to nearest paved road and name of road.
9. \_\_\_\_\_ Drainage: Indicate any drainage or hilly terrain by flow-line arrows and contour lines. Show proposed drainage of site by flow-line arrows and swales.
10. \_\_\_\_\_ Grading/Topographic Information:
  - \_\_\_\_\_ Show existing contours and proposed finish contours.
  - \_\_\_\_\_ Show finish elevations at lot corners and graded areas.
  - \_\_\_\_\_ Show finish grades for all structures, pads and parking surfaces.
  - \_\_\_\_\_ If no grading is proposed, state "No grading proposed."
  - \_\_\_\_\_ Show location, size and height of any existing or proposed walls.
11. \_\_\_\_\_ Land Use District: Indicate existing and proposed General Plan Land Use District (zoning) for project and all adjacent property including across any streets. If adjacent property is within a City, list the City and City Zoning.
12. \_\_\_\_\_ Structures/Land Use (Adjacent Areas): Indicate the existing land use, including "Vacant" or "citrus grove," of structures on all adjacent property including areas across any adjacent streets. Indicate distance to any structure that is within 20 feet of the project property line.
13. \_\_\_\_\_ Structures (Project Area): Indicate with dimensions all existing and proposed structures, including but not limited to power poles, towers, fences, trash enclosures, signs, septic systems. Indicate type of construction and approximate age of any existing/proposed structures.

- \_\_\_\_\_ Locate by distance in relation to other structures and property lines.
- \_\_\_\_\_ Indicate existing structures that are to remain or to be removed.
- \_\_\_\_\_ Indicate the specific use of all existing and proposed structures.
- \_\_\_\_\_ Indicate height, building footprint dimensions, including eave overhang projections, square footage of each story and number of stories including basements.
- \_\_\_\_\_ Show location and height of any wall.

14. \_\_\_\_\_ Vicinity Map: Indicate project location within a general vicinity map with a north arrow. Indicate nearest cross streets, major access roads and community name.
15. \_\_\_\_\_ Signage: Provide a dimensioned side elevation of any proposed free-standing or monument identification sign including the proposed "copy" (wording). Include distance from both top and bottom of sign to grade. Refer to Development Code for information on allowable type and size of signs. If no sign is proposed state "No signs proposed". If a sign is proposed at a later date, additional review and costs may be incurred.
16. \_\_\_\_\_ Parking: [Refer to the County Development Code for details.] Show all parking areas with dimensions, number/type of spaces, and surfacing materials. Show the formula per the San Bernardino County Development Code by which you computed the number of spaces required for each use/tenant/unit. Indicate the number of spaces required for each use and indicate the number of spaces proposed as well as the minimum number of spaces required. Use the following chart as an example:

**PARKING SPACE ANALYSIS:**

<u>Land Use/Requirement</u>	<u>Parking Rate</u>	<u>Bldg. Size/Minimum</u>	<u>Required</u>	<u>Provided</u>
Office/misc.	1/250 sq. ft.	1,991 sq. ft. / min. 4	= 8	8
Customer seating area	1/100 sq. ft.	2,854 sq. ft. / min. 10	= 29	30
Stage	1/100 sq. ft.	1,000 sq. ft. / min. 10	= 10	10
Loading Zone	1/5,000 sq. ft.	5,845 sq. ft.	= 2	2
<b>TOTAL</b>		<b>5,845 sq. ft.</b>	<b>49</b>	<b>50</b>
Van accessible spaces for the disabled			1	2
Disabled person spaces			2	0

17. \_\_\_\_\_ Path of Travel: Show a marked path of travel from handicap space(s) and from the street to the main building(s).
18. \_\_\_\_\_ Lot Coverage: Show percentages of parcel covered by impervious surface, landscaping, and open space.
19. \_\_\_\_\_ Plant and Tree Protection: If no protected or endangered trees exist on the site state "No Protected Plants", otherwise show the location, size, and type of all native trees, including unbranched cacti, yuccas, palms and joshuas, and indicate whether any of the following trees are to be removed:
- Valley or Mountain Areas – Six inches or greater in diameter or 19 inches in circumference measured at 4.5 feet above average ground level of the base.
- Desert Areas – All Joshua trees and all species of century plants, nolinias and yuccas. Creosote rings that are 10 feet or greater in diameter. For smoketrees and mesquites, two (2) inches or greater in diameter or six (6) feet or greater in height. All plants protected by the State Desert Native Plants Act shall be protected in accordance with that ordinance.
20. \_\_\_\_\_ Landscaping: Show areas to be landscaped. If in a Redevelopment Area (RDA), a project specific landscaping plan is required at time of submittal.
21. \_\_\_\_\_ Lighting: Show location of outdoor lighting. In a note, indicate the type of lighting and planned shielding design.
22. \_\_\_\_\_ Commercial, Industrial, or Institutional Projects: Show uses of all buildings and structures with number of occupants, hours of operation, etc. If proposed use is storage, indicate type of material to be stored.
23. \_\_\_\_\_ Truck traffic: If truck activity is involved in the project, show the turn maneuvers for the driveways relative to the street.

## LAND USE APPLICATION QUESTIONNAIRE

Complete all sections of this application. Please refer to the checklist contained in the information packet for complete information on submittal requirements. The information furnished in this application will be used in evaluating your project pursuant to the California Environmental Quality Act (CEQA). If you believe an item does not apply to your project, mark it "N/A". Do not leave any blank spaces. If you have any questions about items requested on this form, please call the Customer Service Unit at (909) 387-4131. **Please use no more than four lines to answer any question. If more space is needed, use Attachment A on page 5 of this application questionnaire.**

**APPLICATION TYPE:** Adult-oriented Business

**All Assessor's Parcel Numbers (APNs):** \_\_\_\_\_

### Section 1 - Applicant Data

Applicant \_\_\_\_\_ Name: \_\_\_\_\_  
 \_\_\_\_\_ Firm  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### Section 2 – Property Owner Data (If same as above check ☐)

Property \_\_\_\_\_ owner(s) \_\_\_\_\_ of \_\_\_\_\_ record: \_\_\_\_\_  
 \_\_\_\_\_ Firm  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### Section 3 – Representative Data (If same as above check ☐)

Representative's \_\_\_\_\_ Name: \_\_\_\_\_  
 \_\_\_\_\_ Firm  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### Section 4 – Architecture/Engineering Representative Data (If same as above check ☐)

Representative's \_\_\_\_\_ Name: \_\_\_\_\_  
 \_\_\_\_\_ Firm  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

To be completed by County Staff: Filing Date:

Project No.:

JCS Project No.:

San Bernardino County

-1-

Land Use Application Questionnaire – 4/15/07

**Section 5 – Project Description and Location/Legal Data**

Briefly describe the project and use:

\_\_\_\_\_

Land Use District: \_\_\_\_\_

Overlay Districts: \_\_\_\_\_

Legal Description: Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section: \_\_\_\_\_

USGS Quad Name: \_\_\_\_\_

Location: Community: \_\_\_\_\_ Nearest cross street: \_\_\_\_\_

Street name: \_\_\_\_\_ Side of street: \_\_\_\_\_

Site Size (Gross acres or square footage): \_\_\_\_\_ Number of lots: \_\_\_\_\_

Site Address: \_\_\_\_\_

Proposed Development Area: \_\_\_\_\_

Size of Proposed Buildings: \_\_\_\_\_

Previously approved land use applications for this site: \_\_\_\_\_

Are you filing other land use applications for this site at this time? Yes ☐ No ☐

If yes, please list other application types \_\_\_\_\_

**UTILITIES:**

**Water:** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

Are any existing or proposed wells within 200 feet from any existing or proposed liquid waste disposal system?

Yes ☐ No ☐ If yes, attach an explanation

**Sewage Disposal:** Septic? Yes ☐ No ☐

**Sewer :** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

If septic system/leach lines are proposed or existing, attach information showing proposed or existing location and how the size of the sewage disposal area was determined

**Gas:** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

**Electricity:** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

**Phone:** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

**Cable TV:** \_\_\_\_\_  
(Name of Provider)

Is the site presently served? Yes ☐ No ☐

If an extension is necessary, how long will it be? \_\_\_\_\_

### Section 6 - Environmental Setting

Be sure to answer all of the questions. This information is necessary to evaluate the project under the California Environmental Quality Act (CEQA). You must provide additional information for any answers marked "yes" or "uncertain" in a letter of explanation attached to this application.

1. When do you anticipate starting construction? \_\_\_\_\_

2. Will grading be required? Yes ☐ No ☐

If so, how many cubic yards will be cut? \_\_\_\_\_ How many cubic yards will be filled? \_\_\_\_\_

3. Is the project phased? Yes ☐ No ☐

If yes, describe the phasing: \_\_\_\_\_

4. Will the use require truck activity? Yes ☐ No ☐

If yes, give truck type(s) and number of axles: \_\_\_\_\_

What is the gross weight of each vehicle: \_\_\_\_\_

\_\_\_\_\_, Number of truck trips per day

	<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>UNCERTAIN</u></b>
5. Will the project change scenic views or vistas from existing residential areas, public lands or roads?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Will there be a change in dust, ash, smoke, fumes or odors in the vicinity of the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Has the site been surveyed for historical, paleontological or archaeological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the site on filled land or on slope of 10 percent or more?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Will there be the use or disposal of potentially hazardous materials, such as toxic substances, flammables, or explosives?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Will there be a change in lake, stream, or ground water quality or quantity, or alteration of existing drainage patterns?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Will there be any substantial change in existing noise or vibration levels in the vicinity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Will there be a substantial change in demand for public services (police, fire, water, sewage, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Has a traffic study been prepared for this site or has the site been included in another traffic study?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Will the project generate significant amounts of solid waste or litter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Will the project change any existing features of hills or make substantial alteration of ground contours?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Will there be a substantially increase in fossil fuel consumption (electricity, oil, natural gas, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Is there a relationship to a larger project or series of projects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. List any previous environmental documents or technical studies prepared for this site:	<hr/>		

#### **Locational and Buffering Requirements.**

19. Is the adult-oriented business within 500 feet of any County land use zoning district that contains the words "Residence" or "Residential" within its title, any place of worship as defined in the Development Code Section 810.01.170, any school as defined in the Development Code Section 84.02.020, or any park? (All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the parcel on which the adult-oriented business is or will be located to the nearest property line of a land use or land use zoning district.) ☐ Yes ☐ No If the answer is yes, explain.
- 
20. Is the adult-oriented business within 250 feet of any residential use located within a County land use zoning district that contains the words "Rural Living" or any residential use located within the IC land use zoning district? ☐ Yes ☐ No If the answer is yes, explain.
-

21. Is the adult-oriented business within 1,000 feet of any of an existing adult-oriented business? ☐ Yes ☐ No  
If the answer is yes, explain.
- 

22. Will the adult-oriented business comply with all of the operating standards pursuant to the Development Code Section 84.02.050? ☐ Yes ☐ No If not, explain.
- 

**The following Performance Standards are required. Note any conflicts or exceptions requested.**

23. The project must meet the general performance standards provided in Chapter 83.01 of the County Development Code. Check any category that may be impacted and explain how the impact is fully mitigated:

- |                                      |  |   |                               |
|--------------------------------------|--|---|-------------------------------|
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Electrical Disturbances | <input type="checkbox"/> Fire Hazards   | <input type="checkbox"/> Heat |
| <input type="checkbox"/> Noise       | <input type="checkbox"/> Vibration               | <input type="checkbox"/> Waste Disposal |                               |
- 

24. The exterior design of the business must be compliant with the standards in County Code Chapter 83.02 General Development and Use Standards, 83.06 Fences, Hedges and Walls, and 83.10 Landscaping Standards. Does the project so comply? ☐ Yes ☐ No If not, explain.
- 

25. The exterior lighting of the business must be designed as permitted in individual zoning districts, Chapter 83.07 (Glare and Outdoor Lighting) and in compliance with the provisions of Section 84.02.040 of the Development Code. Does the project meet this requirement? ☐ Yes ☐ No If not, explain.
- 

26. Adult businesses shall not be located with an area designated as Prime, Unique or Important Farmland, including on land within an Agricultural Preserve. Is the business to be located within an area zoned for agricultural or forestland uses, or within an area designated as Prime, Unique, or Important Farmland. ☐ Yes ☐ No If the answer is yes, explain.
- 

27. All businesses must comply with the requirements of any or all overlays in which they are located. Is the business to be located within one of the below listed overlays? ☐ Yes ☐ No If so, does the business comply with all of the development standards detailed in the Development Code for each overlay? ☐ Yes ☐ No If not, explain. (Additional reports/studies may be required based on site location and Conditions of Approval may be applied.)

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Additional Agriculture (AA) | <input type="checkbox"/> Agriculture Preserve (AP) | <input type="checkbox"/> Airport Safety (AR)          |
| <input type="checkbox"/> Biological Resources (BR)   | <input type="checkbox"/> Cultural Resources (CP)   | <input type="checkbox"/> Fire Safety (FS)             |
| <input type="checkbox"/> Floodplain Safety (FP)      | <input type="checkbox"/> Geologic Hazard (GH)      | <input type="checkbox"/> Mineral Resources (MR)       |
| <input type="checkbox"/> Noise Hazard (NH)           | <input type="checkbox"/> Open Space (OS)           | <input type="checkbox"/> Paleontologic Resources (PR) |
| <input type="checkbox"/> Sign Control (SC)           | <input type="checkbox"/> Sphere Standards (SS)     | <input type="checkbox"/> Community Plan/Area Plan     |

Provide any additional information relative to the overlay that may mitigate any impact(s).

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28. Will the business generate any obnoxious odors on-site or in the immediate vicinity?  
☐ Yes ☐ No If the answer is yes, explain.
- 
29. Will the business be operated in compliance to the standards in Chapter 88.01, Plant Protection and Management and Chapter 88.02, Soil and Water Conservation? ☐ Yes ☐ No If not, explain.  
 Are there any Desert or protected trees/plants onsite? ☐ Yes ☐ No If the answer is yes, explain.  
 (Verification may be required.)
- 
30. All businesses must be operated in compliance to the standards in Chapter 84.30 (Greenhouse Gas Emissions Reduction Plan Implementation). Does this project so comply? ☐ Yes ☐ No If not, explain.
- 
31. Businesses will not be sited on a location on a list of hazardous materials sites compiled by the State. Is this project located on such a site? ☐ Yes ☐ No If the answer is yes, explain.
- 
32. All waste materials must be stored, handled, and disposed of in compliance with Section 83.01.100 (Waste Disposal), and Chapter 84.24 (Solid Waste/Recyclable Materials Storage). Does this project met these requirements? ☐ Yes ☐ No If not, explain.
- 
33. All businesses must provide site and emergency access pursuant to the requirements in the Uniform Fire Code, included in the County Code Sections 23.0101 through 23.0111. Does this project do so? ☐ Yes ☐ No  
 If not, explain.
- 
34. All businesses must be constructed and operated in compliance to the standards in Chapter 83.15 (Conditional Compliance for Water Quality Management Plans), and the Pollutant Discharge Elimination System Regulations as provided in Sections 35.0101 through 35.0132 of the County Code. Does this project do so? ☐ Yes ☐ No  
 If not, explain.
- 
35. All businesses must be constructed in compliance to the standards in Section 82.13.080 Erosion and Sediment Control Plans/Permits. Does this project so comply? ☐ Yes ☐ No If not, explain.
- 
36. All businesses must be operated in compliance to the standards in Sections 33.0601 through 33.06557 related to groundwater management and public water supply systems. Does this project do so? ☐ Yes ☐ No  
 If not, explain.
-

37. All businesses must have adequate access and circulation and comply with the General Development and Use Standards provided in Sections 82.02.030 through 82.02.080, and the Installation of Street Improvement requirements provided in Sections 83.05.050 through 83.05.080. Does this project have such access and circulation and does it comply with these standards? ☐ Yes ☐ No If not, explain.
- 
38. Does the site for the business have adequate parking pursuant to the standards in Chapter 93.11 (Parking and Loading Standards)? ☐ Yes ☐ No If not, explain.
- 
39. All business must have adequate infrastructure pursuant to the standards in Chapter 83.09 (Infrastructure Improvement Standards). Does this site provide adequate infrastructure? ☐ Yes ☐ No If not, explain.
- 
40. Describe the project site, as it exists before project implementation, including information on topography, soil stability, plants and animals, and any cultural, historical, or scenic aspects. On an attachment describe any existing structures on the site, and the use of the structures.
- 
41. On an attachment, describe the surrounding properties, including information on plants and animals and any cultural, historical, or scenic aspects. Indicate the type of land use (residential, commercials, etc.), intensity of land use (single family dwelling(s), apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity.

**Attachment A**

(Please use this form to amplify any answer. Be sure to identify which question is being amplified.)

## APPLICATION CERTIFICATE

**ALL OWNERS OF RECORD MUST SIGN THIS CERTIFICATE:** (Attach it to the application)

List Assessor's Parcel Number(s) of the project property:

List Assessor's Parcel Number(s) of all property contiguous to the project property, which is owned or beneficially controlled by the individual(s) signing this Certificate: If there are no contiguous properties under the same ownership, STATE "NONE" —**do not leave blank.**

The undersigned owner(s) or officer(s) in the organization owning the lands for which this application is made, states that he/she is aware that the application is being filed with the San Bernardino County Planning Division, and certifies under penalty of perjury that the County applications forms have not been altered and that the information contained in this application, including the Environmental Determination form, is true and correct. I (We) acknowledge that additional materials may be necessary to provide to the Planning Division once the preliminary review of the specifics of the project has been initiated. I (We) further agree that if any information contained in this application proves to be false or incorrect, the County of San Bernardino and any special purpose or taxing district affected thereby are and shall be released from any liability incurred if a certificate of compliance is or has been issued on basis of this application. I understand that under such circumstances any such certificate shall be null and void and shall be returned to the County for cancellation.

**The applicant/owner/developer agrees to pay all accumulated charges for this project, if this is an actual cost application. Your project will not be approved, finaled, or vested until all charges are paid in full. If attempts to collect any outstanding funds are unsuccessful, your project will be closed and the account sent to collections. County will make every effort to stop work and notify the applicant before proceeding and placing a project into deficit.**

For any type of application, the applicant also agrees to defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding attacking or seeking to set aside, void or annul the approval of all or part of the matters applied for, or any other claim, action or proceeding relating to or arising out of such approval. This requirement includes the obligation to reimburse the County, its agents, officers and employees for any court costs or attorney fees which the County, its agents, officers or employees are required by a court to pay as a result of such claim, action or proceeding. The County agrees to notify the applicant of any such claim, action or proceeding promptly after the County becomes aware of it. The County agrees to cooperate in the defense provided by the applicant. The County may, at its own expense, participate in the defense of the claim, action or proceeding, but such participation will not relieve the applicant of applicant's defense and indemnification obligations.

Any persons signing with Power of Attorney for others must print the names of those individuals in the signature block and attach a notarized copy of the Power of attorney.

\_\_\_\_\_  
(Print) (APPLICANT OR LEGAL AGENT)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

REGISTRATION NO.  
(IF R.C.E. OR LICENSED LAND SURVEYOR)

\_\_\_\_\_  
(Print) (OWNER(S) OF RECORD)\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print) (OWNER(S) OF RECORD)\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print) (OWNER(S) OF RECORD)\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*\*If property is owned by corporation, partnership or other group signee should indicate corporate position or title and submit substantiating documentation (e.g. incorporation certificate).*

## HAZARDOUS WASTE SITE CERTIFICATION

This certificate must be submitted with all Development Case Applications except for legislative acts such as General Plan Land Use District changes.

### **INSTRUCTIONS**

The applicant for this development project shall consult the most current list of identified hazardous waste sites provided by the County of San Bernardino to determine whether the development project is located on a site included on the list. This list is contained in this packet and is titled "Identified Hazardous Waste Sites – County of San Bernardino."

### **CERTIFICATION**

The undersigned owner, applicant or legal representative of the lands for which this development project application is made, hereby certifies under penalty of perjury, and in accordance with Section 65962.5(e) of the Government Code of the State of California that he (she) has consulted the most current and appropriate list of "CAL/EPA, Facility Inventory Data Base, Hazardous Waste and Substances Sites List," and further certifies that the site of the proposed development project:

☐ Is not located on a site which is included on the list of "Identified Hazardous Waste Sites – County of San Bernardino," dated: 4/15/1998

**OR**

☐ Is located on a site included on the list of "Identified Hazardous Waste Sites – County of San Bernardino," dated: 4/15/1998.

List all of the Assessor Parcel Numbers (APNs) of the project property:

---



---

Printed Name of Person Certifying this Review

---

Signature of Person Certifying this Review

---

Date

# **IDENTIFIED HAZARDOUS WASTE SITES**

**COUNTY OF SAN BERNARDINO**

**CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
Dated April 15, 1998**

**Summarized by San Bernardino Land Use Services Department**

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

**City: Adelanto**

17909 Adelanto, 92301  
Jack B. Kelly Co.

11605 Bartlett Ave., 92301  
Harken Marketing #100854

8801 El Mirage Rd., 92665  
Aerochem, Inc.

**City: Afton Canyon**

(No St. #) I-15, 92309  
Dunn Siding Site

**City: Agua Fria**

26816 189 Hwy, 92317  
Art's Corner

**City: Alta Loma**

9464 Baseline, 91701  
7-11 Store #13979

**City: Apple Valley**

20307 Bear Valley Rd., 92307  
J & M Service

Bell Mountain(No St. #), 92392  
Southdown Black Mtn. Quarry

Rancherias & Hwy 18, 92307  
Apple Valley Country Club

20230 Hwy 18, 92307  
Rebel Gas

21727 Hwy 18, 92307  
ARCO #1026

3 Mi. East of Hwy 18, 92307  
Apple Valley Landfill

**City: Arrowbear**

32821 Hilltop Dr., 92311  
Cal Trans Dry Creek Mtn. S.

33211 Hilltop Dr., 92311  
Arrowbear Mobil Station

**City: Baker**

11 Baker Blvd., 92309  
ARCO #5010

70274 Baker Blvd., 92309  
Bronco Station

71759 Baker Blvd., 92309  
Abandoned station

71930 Baker Blvd., 92309  
Gale Pike property

72111 Baker Blvd., 92309  
Shell Station

72132 Baker Blvd., 92309  
Texaco Station

72137 Baker Blvd., 92309  
Unocal Station

72352 Baker Blvd., 92309  
DJ's Market

Kelbaker Rd., 92309  
Chevron #9-9879

**City: Barstow**

913 Barstow, 92311  
Chevron Station #9-2325

2890 Lenwood Rd., 92311  
Chevron Station

2951 Lenwood Rd., 92311  
Yellow Freight System, Inc.

500 Main St., 92311  
ARCO #0064

600 W. Main St., 92311  
Circle K Store #631

800 Main St., 92311  
U Haul of San Bernardino

931 E. Main St., 92311  
Texaco Station

1101 E. Main St., 92311  
Transmission World

1230 Main St., 92311  
James Soutar property

1251 E. Main St., 92311  
ARCO #1050

1400 Main St., 92311  
Thrifty Oil #332

1421 W. Main St., 92311  
Sparkle Car Wash

1440 E. Main St., 92311  
Unocal #4969

1451 E. Main St., 92311  
Chevron #9-3933

1500 E. Main St., 92311  
Merv's Exxon

1700 E. Main St., 92311  
E-Z Serve

2081 W. Main St., 92311  
Unocal #5370

2250 Main St., 92311  
Heartland Truck Stop

2340 W. Main St., 92311  
Desert Disposal

2521 W. Main St., 92311  
Streamlight West

200 Mountain, 92311  
Montara Texaco #0427

500 Rimrock Rd., 92311  
Circle K #1096

USMC Logistic Base, 92311

USMC LB T2A, B, C1

USMC LB T19A, B, C

USMC LB T43

USMC LB T71A, B

USMC LB T155

USMC LB T157

USMC LB Fuel Farm

USMC LB T181A, B

USMC LB T196

USMC LB T197

USMC LB T203

USMC LB T213A, B, C

USMC LB T225A

USMC LB T225B

USMC LB T227

USMC LB T251C, D

USMC LB T322A

USMC LB T322B

USMC LB T443

USMC LB T479

USMC LB T530B

USMC LB T573A, B, C, D, E

USMC LB T590A, B, C

USMC LB T598

USMC LB T614

**City: Big Bear City**

42090 Shore, 92315  
Big Bear Road Yard

**City: Big Bear Lake**

40182 Big Bear Blvd., 92315  
Investment Properties

40553 Big Bear Blvd., 92513  
Wahl's Texaco

40829 Big Bear Blvd., 92315  
Mobil Station #18-GFC

41339 Big Bear Blvd.,  
USA Petroleum Station #239

41390 Big Bear Blvd., 92315  
Texaco Service Station (Stocks)

41570 Big Bear Blvd., 92315  
Tubbs, Dorothy

42081 Big Bear Blvd., 92315  
Moonridge Service Station

404 Jeffries Rd.,  
Big Bear Lake Public Works

665 S. Knickerbocker, 92315  
Bear Valley USD

500 Paine Rd., 92315  
Big Bear Marina

439 Pine Knott Ave.  
Big Bear Boat Landing, Inc.

**City: Bloomington**

10174 Magnolia, 92316  
SBFCD Central Valley Dist.

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

2305 S. Riverside Ave., 92316 Mobil Station #04-086	13799 Monte Vista Ave., 91710 Crown Coach International	(No St. #) Glen Helen Rd., 92407 Glen Helen Rehabilitation
18745 Valley Blvd., 92316 Chevron Service Station #8646	14000 Monte Vista Ave., 91710 Ormyte Fiberglass	<b>City: Etiwanda</b> 12459 Arrow Hwy., 91769 Ameron Steel & Wire
<b>City: Blue Jay</b> 26830 189 Hwy, 92315 Blue Jay Road Yard	12201 Mountain Ave., 91710 Arco Service Station #3081	<b>City: Fontana</b> 8515 Cherry, 92335 G and M Oil SS #37
<b>City: Cadiz</b> Hwy 66 & Cadiz Rd. (No St. #), 92219 Stevens Market	3707 Riverside Dr., 91710 Farmer's Market & Deli	9400 Cherry, 92335 Kaiser Steel
<b>City: Cedar Glen</b> 325 N. State 173 Hwy., 92321 Chevron Station #9-3863	5882 Riverside Dr., 91710 Simon's Unocal	(No St. #) Etiwanda Ave., 92335 Southern Pacific-Kaiser Siding
<b>City: Cedarpines Park</b> 21837 Church St., 92322 Cedar Pines Park Mutual Water	11389 Vernon, 91710 Graciano property	11001 Etiwanda Ave., 92335 CBI NA-Con. Inc.
<b>City: China Lake NAWS</b> China Lake NAWS Randsburg Gas Station IOB Gas Station CLPL Gas Station	13878 Yorba Ave., 91710 Concord Fabrics	16090 Foothill Blvd., 92335 Thrifty Oil Service Sta. #321
<b>City: China Lake NAWS</b> China Lake NAWS Randsburg Gas Station IOB Gas Station CLPL Gas Station	<b>City: Chino Hills</b> 5001 Los Serranos, 91710 Los Serranos Mobil	8747 Lime, 92335 Boral Resources, Inc.
<b>City: Chino</b> 12077 Central Ave., 91710 Unocal Services Station #6	<b>City: Colton</b> 291 W. Adams, 92324 Aristech	14000 San Bernardino Ave., 92335 California Steel Industries
12080 Central Ave., 91710 Texaco Service Station	330 W. Citrus St., 92324 Brigg's Plumbing Ware Inc.	(No St. #) Sierra Ave., 92336 Fontana Landfill
13251 Central Ave., 91710 Chino District Fire Station #1	130 Fogg St., 92324 Arrowhead Drinking Water Co.	7980 N. Sierra Ave., 92336 Circle K Store
13688 Central Ave. Chino Automotive Service	1231 Lincoln Ave., 92324 Morton International	14416 Slover Ave., 92335 Lend Lease Truck Rental/Lease
13855 Central Ave., 91710 Layne Western Co/McCalla	695 S. Rancho Ave., 92324 Cal-Mat Company	<b>City: Fort Irwin</b> Fort Irwin NTC, 92310 Bldg 385 Bldg 680 Bldg 681 Bldg 682 Bldg 682 T82 Bldg 708
14901 Central Ave., 91710 California Institute for Men	500 Valley Blvd., 92324 Big Bear Airport	<b>City: George AFB</b> (No St. #) Readiness St., 92394 Liquid Fuels District System
16756 Chino-Corona Rd., 91720 Calif. Institute For Women	777 Valley Blvd., 92324 Colton Unified School District	<b>City: Harvard Station</b> (No St. #) Minneola Rd. UPRR Harvard Station
(No St. #) Chino Ave. Barrinson Development	847 E. Valley Blvd., 92324 E- Z Serve	<b>City: Hesperia</b> 14651 Cedar, 92345 Lake Silverwood SRA
6293 Chino Ave., 91710 Fikse Bros., Inc.	<b>City: Crestline</b> 23735 Lake Dr., 92325 Chevron #9-1022	18525 Bear Valley Rd., 92345 Mojave Rock and Sand
15180 S. Euclid Ave., 91710 Cal Youth Training School Pacific Properties	23952 Lake Dr., 92325 Michelle Whitehead	13105 W. Main St., 92345 Shell Service Station
16500 Johnson, 91710 Chino Basin CIW Prado	24156 Lake Dr. 7-11 #23818	15787 W. Main St., 92345 Goodyear Tire & Rubber
16630 Johnson, 91710 Haley property	<b>City: Daggett</b> 39500 National Trails Hwy, 92327 Gas Station Barracks	15853 Main St., 92345 Circle K #1034
6511 Kimball, 91710 Farmers Fertilizer Co.	<b>City: Devore</b>	
7000 Merrill St., 91710 Southland 7-11 #20090		
San Bernardino County	-2-	Identified Hazardous Waste Sites

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

11612 Mariposa, 92345 US Rentals	11202 Benton St., 92337 Jerry Pettis VA Hospital	1408 Francis, 91761 Ontario Fire Station #3
9531 E. Santa Fe St., 92345 Hesperia Towing	24779 Redlands Blvd., 92354 Turner Storage	2156 Grove, 91761 ARCO Service Station AM/PM
	24891 W. Redlands Blvd., 92408 Unocal Service Station #2417	(No. St. #) Holt Ave., 91761 City of Ontario
<b>City: Highland</b> 26212 Baseline Rd., 92346 Baseline Laundry Dry Cleaner	24910 W. Redlands Blvd., 92408 Chevron Service Station #2786	316 Holt, 91762 Imperial Thrift and Loan
3601 Highland Ave., 92346 Unocal Service Station #6	25694 Redlands Blvd., 92354 Crafton Motors (Former)	601 Holt, 91761 Fast Fuel Service Station
(No St. #) Newport Ave., 92346 Seven Oaks Dam	<b>City: Lucerne Valley</b> 30815 Hwy 18, 92356 Rocket Gasoline Station	1424 W. Holt Blvd., 91762 Gene's All Color Paint
7979 Palm, 92346 Safety-Kleen Corp.	5808 Hwy 18, 92356 Mitsubishi Cement Corp.	4330 Inland Empire Blvd. Beacon Truck Stop #51-8
<b>City: Hinkley</b> 35863 Fairview Rd., 92347 Hinkley Compressor Sta.	<b>City: Montclair</b> 4531 Holt Blvd., 91763 Midway Building Materials	1546 Magnolia Postum Farm
26487 Hwy 58 Whiting Brothers Hinkley	<b>City: Needles</b> 997 Bridge Rd., 92363 Needles Golf Course	601 E. Main St., 91761 Unocal Bulk Plant #0551
<b>City: Kelso</b> (No St. #) None Kelso Turbine Compressor Sta.	901 E. Broadway, 92363 Calimesa Oil - EB	2050 S. Milliken, 91761 Milliken Landfill
<b>City: Kramer Corner</b> (No St. #) Hwy 395 & Hwy 58, 92516 Four Corners Union	2321 W. Broadway, 92363 G.M. Oil #26	1428 Mission, 91762 Romar Roofing Supplies
2852 Hwy 58, 92516 Four Corners Chevron	2402 W. Broadway, 92363 Calimesa Oil-WB	860 Mountain Ave. Unocal Service Station #4383
<b>City: Lake Arrowhead</b> 250 Golf Course Rd., 92352 Lake Arrowhead Country Club	(No St. #) Park Moabi Rd., 92363 SB Co. Park Moabi Marina	988 Ontario Airport, 91764 Lockheed Air Terminal Tank 12
(No St. #) S. Shore Marina, 92351 Lake Arrowhead S Shore Marina	(No St. #) Vidal Junction Rd. Needles Refuse Disposal Site	634 S. Palmetto Ave., 91762 Lee & Stires, Inc.
840 Willow Creek, 92352 Willow Creek Maintenance	<b>City: Ontario</b> 5705 E. Airport Dr., 91761 Union Carbide Corporation	915 Philadelphia St., 91761 Chino Basin MWD Montclair
325 Hwy 173, 92352 Chevron #9-6029	2264 Avion Blvd., 91761 GE Aircraft	5025 State Hashemeyan property
870 Hwy 173, 92352 North Shore Marina	1425 Bon View, 92376 Ontario Municipal Service	501 Vineyard Texaco Service Station
28200 Hwy 189, 92352 Lake Arrowhead Village Cl	1621 Cedar, Classic Fence Company	2662 Walnut St., 91761 Chino Basin Water District
<b>City: Lenwood</b> 25513 W. Main St., 92310	10741 Central Pl. Monte Vista Disposal	844 Woodlawn St. Gonzales & Sons
24645 W. Main St., 92311 Whiting Brothers Lenwood	903 Euclid Ave., 91761 E-Z Serve Facility #94022	1315 4 <sup>th</sup> St., 91761 Fast Fuel Service Station
1 Lenwood Hwy, 1/2 mi N. of 58, 92311 Lenwood Hinkley Landfill	2430 S. Euclid Ave. Arco Service Station #6126	1530 4 <sup>th</sup> St., 91764 Ontario Fire Station #5
<b>City: Loma Linda</b> 11100 Anderson Rd., 92350 LLUMC Power Plant	2431 S. Euclid Ave., 91761 Shell Service Station	1384 5 <sup>th</sup> St., 91764 TCI Leasing
		<b>City: Oro Grande</b> 18980 National Trails Hwy R.E. Goodspeed & Sons
		19409 National Trails Hwy, 92368 Riverside Cement Co.

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

**City: Parker Dam**

501 Parker Dam, 92257  
Big Bend Resort

**City: Rancho Cucamonga**

8687 Baseline Rd., 91730  
Chevron Service Station #4863

9160 Buffalo, 91730  
Pier 1 Imports

8166 Foothill Blvd., 91730  
Rod's Foodmart/Texaco

9082 Foothill Blvd.  
Unocal Service Station #6972

9533 Foothill Blvd., 91730  
Arco Service Station #1721

8575 Helms Ave., 91730 Pneu-  
Draulies

9817 7th St., 91730  
Camberland Swan

9292 9th St., 91730  
Fasson-Avery Dennison

**City: Redlands**

840 W. Brockton Ave., 92374  
Teledyne Battery

1325 Brookside Ave., 92373  
Mobil Service Station #18-E9P

1950 California St.  
Redlands, City of

955 Citrus, 92374  
Redlands Unified School District

305 W. Colton Ave., 92373  
Redlands Battery

32185 E. Outer I-10 Hwy, 92373  
Jorco Chemical Co.

32194 Outer I-10 Hwy, 92373  
Redlands-Yucaipa Rentals

1105D Park Ave., 92373  
Jim Harrison

1075 Parkford Dr.  
Unocal Service Station

1580 Redlands Blvd., 92375  
Calif. Target Entr.

1631 Redlands Blvd., 92373  
Goodyear Tire Center

25715 Redlands Blvd.  
Arco SS #5205 (Prestige)

(No St. #) W. Redlands Blvd.  
Stop N' Go #385-765

1401 Texas St., 92373  
Texas Street Pumping Plant

**City: Rialto**

1020 Bloomington Ave., 92376  
Merit Oil

110 Foothill Blvd., 92376  
Texaco Service Station

290 Palm, 92376  
Metrolink

105 S. Pepper St., 92376  
Nat'l Convenience Store, Inc.

1877 N. Riverside Ave., 92376  
Arco - Riverside Service

101 E. Valley Blvd., 92376  
Chevron Service Station #6969

**City: Rimforest**

26491 Pine Ave.  
Rim Forest Lumber

**City: Running Springs**

32005 Holiday Lane, 92382  
Don's Auto Parts

**City: San Bernardino**

372 S. Arrowhead Ave., 92408  
Armored Transport of CA., Inc.

108 E. Baseline St., 92410  
Fame Liquors

235 E. Baseline St., 92416  
Fast Gas

296 Baseline St., 92405  
Conoco Oil  
Union Service Station

301 W. Baseline St.  
Unocal Service Station #1842

25699 E. Baseline St., 92410  
Mobil Service Station #18-HVF

Bunker Hill Ground Water, 92408  
Newmark Groundwater

Cajon Blvd., 1/4 Mi. N. of Palm Ave  
Cajon Landfill

195 N. D St., 92401  
San Bernardino Water Dept.

110 S. D St., 92401  
U-Haul Center of Central City

187 N. F St., 82415  
Unocal Service Station #6968

223 S. G St., 91410  
Inland Beverage Company

275 S. G St., 92410  
Chuby Chassis

4472 Georgia, 92407  
McLane Company

605 S H St., 92405  
ARCO - AM/PM Minimarket #5082

1198 E. Highland Ave., 92405  
Pronto Marketing #316

100 W. Highland Ave., 92405  
Mobil Service Station #18-F1W

1108 W. Highland Ave., 92405  
Shell Service Station

2187 W. Highland Ave., 92405  
Thrifty Oil Service Stn #325

847 W. Highland Ave., 92405  
Mobil Service Station #18-HN5

1955 Hunts Lane, 92408  
Truck O'Mat

Hwy 18 Milepost 15.84  
Caltrans Panarama Pt. Maint. St.

5715 N. Industrial Pkwy.  
American National Can Co.

501 Inland Center Dr., 92408  
P & M Service Station #937

736 Inland Center Dr., 92415  
Levitz Furniture

895 Inland Center Dr., 92410  
Daugherty Company

939 Inland Center Dr., 92408  
San Bernardino Pipe & Supply

807 Mill St., 92408  
Mobil Service Station #18-ARM

1208 N. Mt. Vernon Ave., 92411  
Thrifty Oil Service Stn #326

341 S. Mt. Vernon Ave., 92410  
Alta Dena Dairy

572 S. Mt. Vernon Ave., 92410  
Arco Service Station #5181

3003 N. E St., 92410  
Unocal Service Station #6060

Norton Air Force Base, 92409  
499 Orange Show Rd., 92402  
Nevada Investment Holdings

520 Orange Show Rd., 92402  
Mobil Service Station #18

24732 Redlands Blvd., 92415  
Midway Garage

305 Redlands Blvd., 92408  
Arco Service Station #5214

Identified Hazardous Waste Sites

San Bernardino County

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

Southdown Victorville Plant

2898 W. Rialto Ave., 92410  
Arco - AM/PM Mini Market

73690 Twentynine Palms,  
ARCO Service Station #5216

14749 Hesperia Rd., 92392  
Victor Valley Van & Storage

747 W. Rialto Ave., 92410  
Viking Tire

Twentynine Palms Marine Corp. Base

12122 Mariposa, 92307  
Arco #204

1331 S. E St., 92408  
U.S. Post Office

**City: Twin Peaks**  
26090 Hwy 189  
Crest Forest Fire Station #26

13693 Mariposa, 92392  
Cal Trans Maintenance Yard

774 S. E St.  
Goodyear Tire Center

**City: Upland**  
1284 Airport Dr., 91786  
Dineen Trucking

14177 McArt, 92392  
City Yard-Public Works

915 Scenic Dr., 92408  
Fairco Inc.

1401 E. Arrow Hwy, 91786  
R.F. White Co.

16088 Mojave Dr., 92392  
Unocal #5596

3800 N. Sierra Way, 92405  
Ranger Unit Headquarters

159 Euclid  
G and M Oil Service Station #22

16552 Mojave Dr., 92392  
The Meating Place

182 S. Sierra Way, 92418  
San Bernardino, City of

502 S. Euclid Ave., 91787  
Unocal Service Station #5142

16606 Mojave Dr., 92392

1945 Tippecanoe Ave., 92410  
Thrifty Oil Service Stn #345

183 Foothill Blvd.  
Terry's Shell

14286 Outer 7th St., 92392  
Grace Equipment

1145 S. Waterman Ave., 92408  
Frank's Fence

811 Foothill Blvd., 91786  
Texaco Service Station

14480 Outer 7th St., 92392  
Bar S Liquor

2211 Western, 92411  
Calif. Highway Patrol

187 S. Mountain Ave., 91786  
Arco Service Station #1876

15445 Palmdale Rd., 92392  
Thrifty Oil #331

702 W. 2nd St., 92410  
Arco Service Station #6227

1261 16<sup>th</sup> St.,  
Upland Hills Country Club

13325 Spring Valley Pkwy, 92392  
Spring Valley Lake Assoc.

300 W. 3rd St., 92405  
Unocal Service Station #2281

495 E. 19th St., 91785  
Liberty Groves

16881 Stoddard Wells Rd., 92392  
Chevron #9-3863

24901 E. 5th St.  
Circle K Store #0335

(No St. #) 20th St., 91785  
Ampac

17540 Turner Rd., 92392  
Fontana Paving  
Boral Resources

255 E. 5th  
Fargo Station

**City: Victorville**

15321 Village Dr., 92392  
Chevron #0834

415 W. 5th St., 92401  
La Mancha (Former Mobil SS)

16251 D St., 92392  
Arco #1908

(No St. #) Hwy 66, 92392  
Roy's Cafe

796 W. 5th St.  
Inco

16363 D St., 92392  
U.S. Rentals

14111 Hwy 395, 92392  
Doby Corners Shell #15

916 6th St.

16568 D St., 92392  
Golden West Tire

16798 Verde, 92392  
Road Maintenance Yard

1111 W. 9th St., 92415  
Interstate Brands

16617 D St., 92392  
Beck Oil Shell

5 Mi N. of Victorville, 92394  
Victorville Refuse Disposal Site

925 W. 10th St., 92411  
Salvation Army

16640 D St., 92392  
Unocal Bulk Plant #0833

(No St. #) 1<sup>st</sup> and D St., 92392  
Cal Trans Victorville

1170 W. 3rd St., 92410  
Atchison, Topeka & Santa Fe Ry

16924 D St., 92392  
Beck Oil Bulk Plant

14400 7<sup>th</sup> St., 92392  
Rancho Motors  
14213 7<sup>th</sup> St., 92392  
Texaco Service Station

**City: Trona**

13068 Main St., 93562  
Trona Railway

16953 D St., 92392  
H & H Trucking

14485 7<sup>th</sup> St., 92392  
Arco #1891

82701 Trona Rd., 93562  
Circle K #1017

17400 D St., 92392  
Zamora's Auto Body

14526 7<sup>th</sup> St., 92392  
Shell Victor Plaza

**City: Twentynine Palms**

(No St. #) Hwy 62, 92277  
S.B. County Airport

16222 Desert Knolls Dr., 92392  
Victorville Fire Station 311  
16888 E St., 92392

14964 7<sup>th</sup> St.

San Bernardino County

-5-

Identified Hazardous Waste Sites

CAL/EPA  
FACILITY INVENTORY DATA BASE  
HAZARDOUS WASTE AND SUBSTANCES SITES LIST  
(Summarized by San Bernardino Land Use Services Department)

Unocal #5571	Chevron #9-7805	34503 Yucaipa Blvd. S & S Texaco Service Sta.
15196 7 <sup>th</sup> St., 92392 7-11 #21035	40873 Sunrise Canyon, 92398 Minneola Mobil	34696 Yucaipa Blvd., 92399 Thrifty Oil Service Stn. #3
15344 7 <sup>th</sup> St., 92392 Hi Tek Market	38753 Yermo Rd. Yermo Truck Stop	34841 Yucaipa Blvd., 92399 Arco Service Station #5172
<b>City: West Cajon Valley</b> 6500 Stone Basin, 92371 Stone Basin Ranch	5 mi E of Yermo, 1-1/2 mi N 1, 92398 Yermo Disposal Site	11377 2 <sup>nd</sup> St., 92399 Yucaipa Road Yard
<b>City: Yermo</b> 37587 Calico Rd. Jar Truck Stop	<b>City: Yucaipa</b> 31933 I-10 Outer Hwy, 92399 Circle K Store #0324	<b>City: Yucca Valley</b> 56079 Twentynine Palms Hwy., 92284 E- Z Serve
(No St. #) Calico-Dagget Rd.	1.5 Mi. E of Oak Glen Rd. Yucaipa Landfill	

# ADEQUATE SERVICE CERTIFICATION WATER AND SEWER INFORMATION SHEET AND APPLICATION

Certification that adequate water and sewer service is available for a development project is required to be submitted along with the application for most development projects. Please refer to the Information Sheet Checklist of Submittal Materials for the specific type of development application you are submitting to determine whether this completed Adequate Service Certification packet must be submitted.

The Adequate Service Certification package is designed to certify the availability of adequate water supply, sewage disposal and fire protection for your project.

## **INSTRUCTIONS:**

The following summary of adequate service certification forms lists the appropriate forms to be utilized to ensure the availability of adequate water/sewer services. Project specifics will determine the applicability forms.

## **SUMMARY OF ADEQUATE SERVICE CERTIFICATION FORMS**

### **PROPERTY INFORMATION**

- (1)      **Form A**                      The applicant shall complete the form and provide a copy to each certifying agency.

### **WATER**

- (2)      **Form W1**                      This form be completed when the proposed project is located within the service area boundaries of a water service utility. The water service utility will either certify that adequate facilities exist to satisfy domestic water service requirements or that financial arrangements have been made with the applicant to provide that capability.
- (3)      **Form W2**                      This form shall be utilized when the proposed project is not located within the service area boundaries of a water service entity and a water well will be utilized as the domestic water source. The Department of Public Health, Division of Environmental Health Services will complete this form.

### **SEWER**

- (4)      **Form S1**                      This form shall be completed when the proposed project is located within the service area boundaries of a sewer service entity. The sewer service entity will either certify that adequate facilities exists to satisfy sewerage requirements or financial arrangements have been made with the applicant to provide that capability. This form will also indicate that the proposed connection to the sewer service facility will not result in sewage flows which will exceed the sewage facility's design capacity.
- (5)      **Form S2**                      This form will be utilized for on-site sewerage, when a sewer service entity is not available to service the proposed project. The County Department of Public Health, Division of Environmental Health Services shall complete this form.

**FORM A****PROPERTY INFORMATION FOR  
ADEQUATE SERVICE CERTIFICATION**

Applicant complete the following information for subject property:

Applicant Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: (     ) \_\_\_\_\_ FAX No.: (     ) \_\_\_\_\_ E-Mail: \_\_\_\_\_

Proposed Use/Project: \_\_\_\_\_

Tentative Tract/Parcel Number: \_\_\_\_\_

Assessor's Parcel Numbers: \_\_\_\_\_

Property Address: \_\_\_\_\_

Community: \_\_\_\_\_

Property Legal: Tract No. \_\_\_\_\_ Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_

The following is a summary of the forms and when they are utilized to receive adequate service certification for the proposed project:

- |    |   |                    |
|----|---|--------------------|
| 1. | Proposed Water Service Utility Connection | Form A and Form W1 |
| 2. | Proposed On-Site Well                     | Form A and Form W2 |
| 3. | Sewer Service Utility Connection          | Form A and Form S1 |
| 4. | Proposed On-Site Sewage Disposal          | Form A and Form S2 |

# **FORM W1** **PUBLIC WATER SERVICE CERTIFICATION**

**Applicant Name** \_\_\_\_\_ **APNs** \_\_\_\_\_

This certifies that the above referenced property is within the service area boundaries of this water service utility and that:

**Service Information: (Check one)**

- ☐ There are currently existing adequate source, storage and distribution line capacities to provide potable water to the referenced site in sufficient quantities to satisfy the domestic water service and fire protection requirements of the proposed use. The water mains to serve each proposed service connection are currently installed and operable.
- ☐ Financial arrangements have been made to install water mains for each proposed service outlet and any other necessary facilities to insure that the proposed use will have adequate source, storage and distribution line capacities to satisfy the domestic water service and fire protection requirements of the proposed use.
- ☐ It is financially and physically feasible to install water service facilities that will provide adequate source, storage and distribution line capacities for each proposed service connection that will satisfy the domestic water service and fire protection requirements of the proposed use.

**Easement Information: (Check one)**

- ☐ This agency has known water lines or easements on the subject property but they do not conflict with the proposed use as currently designed.
- ☐ The agency has water lines and/or easements on the subject property which conflict with the proposed project as currently designed. Applicant must revise plans and resubmit them to this agency for approval.

**Fire Flow Information:**

The proposed water system will provide:

- ☐ Gallons per minute 20 pounds per square inch for minimum \_\_\_\_\_ hour(s) duration.

There have been \_\_\_\_\_ service connections to the existing system. (For Tentative Map applications only.)

Please attach a description and plot map illustrating any affected water lines or easements and sign back page.

This commitment is subject to the ordinances, resolutions, regulations, rules, policies, procedures, standards and rate schedules of this water service agency and the applicant has agreed to the conditions of service including payment for the installation of the required on-site and off-site capital improvements outlined on the attached list (If any, please attach list). All water service facilities can and will be installed prior to construction of the proposed use and will comply with the California Waterwork Standards and applicable Fire Code and local Fire Code and local Fire agency regulations for fire flow. This commitment is subject to County approval of all necessary permits/applications and shall expire one (1) year from the following date.

Utility Manager or Designee \_\_\_\_\_ Date \_\_\_\_\_

Water Service Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: (     ) \_\_\_\_\_

**FORM W2**  
**PRIVATE WATER SERVICE – (FOR DEHS TO COMPLETE)**

**Applicant Name** \_\_\_\_\_ **APNs** \_\_\_\_\_

The County Department of Public Health, Division of Environmental Health Services finds that:

- ☐ The subject property has a water well approved for use by the proposed project.
- ☐ Water system plans have been approved by the fire authority and DEHS.
- ☐ DEHS has reviewed a ground water (hydrologic) report prepared for the subject property and signed by a Registered or Certified Engineering Geologist or Civil Engineer which indicates there is sufficient quantity and quality of the proposed use.
- ☐ (Other) \_\_\_\_\_

This commitment shall expire one (1) year from the following date.

\_\_\_\_\_  
 Signature—DEHS

\_\_\_\_\_  
 Date

**FORM S1  
SEWER SERVICE CERTIFICATION**

**Applicant Name** \_\_\_\_\_ **APNs** \_\_\_\_\_

**To be completed by the Sewering Agency.**

This certifies that the property referenced on Form A is within the service area boundaries of this sewerage agency and that: (check applicable).

- ☐ There are currently existing sewer trunk line(s) of adequate capacity to provide sewerage service and such service will not exceed the design capacity of the lines.
- ☐ There are not currently existing sewer trunk line(s) of adequate capacity. However, it is financially and physically feasible to install sewer trunk lines that will permit adequate service to the referenced property.
- ☐ (Other) \_\_\_\_\_

This agency will commit to providing sewerage service to the referenced project subject to all applicable ordinance s, resolutions, regulations, rules, policies, procedures, standards and date schedules. The applicant has agreed to the conditions of service including payment for the on-site and off-site capital improvements outlined on the attached list. (If any, please attach list). All sewer service facilities can and will be installed prior to occupancy of the proposed use and will comply with all federal, s tate, and country laws and regulations.

This commitment is subject to county review and approval of all necessary permits/applications, and shall expire on the following date \_\_\_\_\_ which represents the end of the three (3) year project approval period. Applicant must refile certification request if project extension of time request is filed.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Name \_\_\_\_\_ of \_\_\_\_\_ Sewering \_\_\_\_\_ Agency: \_\_\_\_\_

\_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_ Phone No.: \_\_\_\_\_ ( ) \_\_\_\_\_

\_\_\_\_\_ Please attach a description or plot plan showing existing or proposed sewer trunk line(s) to the referenced property.

**To be completed by the Publicly Owned Treatment Works (POTW) Waste Management Authority.**

- ☐ This certifies that the above referenced property's proposed connection to this Publicly Owned Treatment Works will not result in sewage/septage flows which will exceed the plant's design capacity.
- ☐ This agency cannot certify that the referenced property's connection to this Public Owned Treatment Works will not resulting sewage/septage flows which will exceed the plant's design capacity.

The waste management authority (does/does not) have adequate facilities to accept the sewage from the referenced property (circle one).

☐ (Other) \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Name of POTW/Landfill: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ ( ) \_\_\_\_\_

Please attach a separate sheet describing the plant or landfill design capacity, sewage/sludge disposal capacity and existing excess capacity and the current number of committed connections, the current number of sewage commitments with their cumulative anticipated total flow.

**The Department of Public Health, Division of Environmental Health Services has reviewed the above reference submittal:**

- ☐ The referenced project is adequately serviced.
- ☐ The referenced project is not adequately serviced
- ☐ (Other) \_\_\_\_\_

cc: Planning Division DEHS Date

California Regional Water Quality Control Board

## FORM S2 ONSITE SEWAGE DISPOSAL CERTIFICATIONS

**Applicant Name** \_\_\_\_\_ **APNs** \_\_\_\_\_

The County Department of Public Health, Division of Environmental Health Services finds that:

- ☐ The subject property is in an area for which the department has sufficient information to assign sewage disposal design rate in compliance with the percolation report waiver criteria.
- ☐ The subject property has a percolation report which has EHS approval. The report contains sufficient information for the design of an on-site disposal system for the proposed use of the property.
- ☐ The subject property is required to have a percolation report for EHS review and approval.
- ☐ Existing septic system shall be certified by a qualified professional (P.E., C.E.G., REHS, C-42 contractor) that the system functions properly, meets code, and has the capacity required for the proposed project.

\_\_\_\_\_  
DEHS

\_\_\_\_\_  
Date

cc: Planning Division

# SURROUNDING PROPERTY OWNERS CERTIFICATION

Certain development case applications and other requests processed by the Land Use Service Department require notification of the surrounding property owners by mail. The notification requirements are specified by California State Law and County Ordinances.

Please refer to the Information Sheet or Application for the submittal requirements for the specific application request you are submitting.

## Mailing Label Requirements:

Prepare labels for all property owners within the area as prescribed by the formulas listed below. **Please include the applicant, representative and the owner of record in these labels.** Ownership of surrounding properties shall be determined from the latest equalized tax assessment roll.

I certify under the penalty of perjury that to the best of my knowledge the enclosed labels contain the names and addresses of all property owners within the area as prescribed by the enclosed formula from the exterior boundaries of the parcel on which the project is located:

---

Printed Name and Company of person who prepared list

---

Signature of person who prepared list

---

Date

## FORMULA: The property for which this application is being processed is (check one):

- ☐ Variance: All contiguous properties. Contiguous means touching or across the street including corners.

### ALL OTHER APPLICATIONS

- ☐ 20.1 acres or less: All parcels within 300 feet of the external boundaries of the parcel on which the project is located.
- ☐ ABC Licenses: All parcels within 500 feet of the external boundaries of the parcel on which the project is located. If the property owner does not reside on-site, a notice needs to be sent to the current resident ("Occupant" plus situs address).
- ☐ 20.2 acres to 160.0 acres: All parcels within 700 feet of the external boundaries of the parcel on which the project is located.
- ☐ 160.1 acres or greater: All parcels within 1,300 feet of the external boundaries of the subject parcel on which the project is located.
- ☐ If project involves a "Hazardous Waste Facility": All parcels within 3,000 feet of the external boundaries of the parcel on which the project is located.
- ☐ If project involves a cancellation of a Land Conservation Contract: All parcels under a Land Conservation Contract within one mile of the external boundaries.

### LABEL FORMAT

(Please type or print legibly in black ink/ribbon.)

Note: **No punctuation** is to be placed on the last line between city state and zip code. **Italic type** print is **not** permitted, and characters **cannot** touch. **No extraneous print** is allowed on or below the delivery address line. Use a three column label format with the size of labels as shown below (1x2 5/8", Avery 5160). Information must be in the format designated below (i.e., APN number must be on top line)

Assessor's Parcel Number
Name
Address
City State Zip Code

0235-092-85-0000
John Doe
1653 Outside Lane
Redlands CA 92300

## **ATTACHMENT 3**

### **Summary of Land Use Studies**

## Attachment #3

## SUMMARY OF LAND USE STUDIES RELATING TO SECONDARY EFFECTS OF "ADULT" BUSINESSES

1. LAND USE STUDY: Amarillo, Texas  
DATE: September 12, 1977

**OVERVIEW:** This planning department report cites several sources including national news magazines, "adult business" ordinances from other cities, and American Society of Planning Officials report and pertinent Supreme Court decisions. Lengthy explanation of the Miller test (with legal definitions), discussions of *Young v. American Mini Theaters*, and a comparison of the Boston and Detroit zoning models are included. The city defined "adult businesses" as taverns, lounges, lounges with semi-nude entertainment, and bookstores or theaters with publications featuring nudity and explicit sexual activities. At the time, Amarillo had three such theaters and four bookstores with space for such publications.

**FINDINGS:** The police department provided an analysis showing that areas of concentrated "adult only" businesses had 2V2 times the street crime as the city average. The planning department concluded that concentrations of these businesses have detrimental effects on residential and commercial activities caused by: (1) noise, lighting and traffic during late night hours; (2) increased opportunity for street crimes; and (3) the tendency of citizens to avoid such business areas. The study noted that lack of zoning regulations would lead to concentrations of sexually oriented businesses (causing increased crime) or more such establishments locating near residential areas or family and juvenile oriented activity sites (churches, parks, etc.).

**RECOMMENDATIONS:** (1) Adult businesses locate 1,000 feet from each other; no recommended distance was specified from residential zones or family/juvenile activities; (2) city development of an amortization schedule and permit/licensing mechanism; (3) city regulation of signs and similar forms of advertising; (4) vigorous enforcement of State Penal Code, especially relating to "harmful to minors;" and (5) city amendments prohibiting minors from viewing or purchasing sexually oriented materials (enforced physical barriers).

2. LAND USE STUDY: Austin, Texas  
DATED: May 19, 1986

**OVERVIEW:** The report was the basis for developing an amendment to existing sexually oriented business ordinances. At the time, 49 such businesses operated in Austin, mostly bookstores, theaters, massage parlors and topless bars. The study examined crime rates, property values, and trade area characteristics.

The report focused on sexually related crimes in four study areas (with sexually oriented businesses) and four control areas (close to study areas and similar). Two study areas had one sexually oriented business and the others had two such businesses. To determine the effects of these businesses on property values, the city sent surveys to 120 real estate appraising or lending firms (nearly half responded). For trade area characteristics, three businesses (a bookstore, theater and topless bar) were observed on a weekend night to determine customer addresses.

**CRIME:** Sexually related crime ranged from 177-482% higher in the four study areas than the city average. In the two study areas containing two sexually oriented businesses, the rate was 66% higher than in the study areas with one such business. All control areas had crime rates near the city average.

**REAL ESTATE:** 88% said that a sexually oriented business within one block of a residential area decreases the value of the homes (33% said depreciation would be at least 20%). Respondents also said such a business is a sign of neighborhood decline, making underwriters hesitant to approve the 90-95% financing most home buyers require. They said commercial property is also negatively effected by such businesses.

**TRADE AREA CHARACTERISTICS:** Of 81 license plates traced for owner address, only three lived within one mile of the sexually oriented business. 44% were from outside Austin.

**RECOMMENDATIONS:** (1) Sexually oriented businesses should be limited to highway or regionally-oriented zone districts; (2) businesses should be dispersed to avoid concentration; and (3) conditional use permits should be required for these businesses.

### 3. LAND USE STUDY: Beaumont, Texas DATE: September 14, 1982

**OVERVIEW:** This report by the city planning department encourages amendments to existing "adult business" ordinances to include eating or drinking places featuring sexually oriented entertainment (strippers, etc.). Zoning laws required "adult uses" to locate 500 feet from residential areas; 300 feet from any other adult bookstore, adult theater, bar, pool hall or liquor store; and 1,000 feet from a church, school, park, or recreational facility where minors congregate.

**CRIME:** Police verified that bars, taverns, and lounges (especially those with sexually oriented entertainment) are frequent scenes of prostitution and the sale/use of narcotics. On the whole, all criminal activity was higher at sexually oriented businesses.

**RECOMMENDATIONS:** (1) Add eating/drinking places that exclude minors (under Texas law), unless accompanied by a consenting parent, guardian or spouse; (2) require specific permits for areas zoned as General Commercial-Multiple Family Dwelling Districts; and (3) reduce the required distance of sexually oriented businesses from residential areas, school, parks, and recreational facilities from 1,000 to 750 feet.

4. **LAND USE STUDY: Cleveland, Ohio**  
**DATE: August 24, 1977**

**OVERVIEW:** This police department report is taken from information given by Captain Delau participating in a panel discussion at the National Conference on the Blight of Obscenity held in Cleveland July 28-29, 1977. The topic was "The Impact of Obscenity on the Total Community." Crime statistics are included for 1976 robberies and rapes. Areas evaluated were census tracts (204 in the whole city, 15 study tracts with sexually oriented businesses). At the time of the study, Cleveland had 26 pornography outlets (8 movie houses and 18 bookstores with peep shows). Their location was not regulated by city zoning laws.

**FINDINGS:** For 1976, study tracts had nearly double the number of robberies as the city as a whole (40.5 per study tract compared to 20.5 for other city tracts). In one study tract with five sexually oriented businesses and 730 people, there were 136 robberies. In the city's largest tract (13,587 people, zero pornography outlets) there were only 14 robberies. Of the three tracts with the highest incidence of rape, two had sexually oriented businesses and the third bordered a tract with two such businesses. In these three, there were 41 rapes in 1976 (14 per tract), nearly seven times the city average of 2.4 rapes per census tract.

**CONCLUSION:** "Close scrutiny of the figures from the Data Processing Unit on any and every phase of the degree of crime as recorded by census tracts indicates much higher crime rate where the pornography outlets are located."

5. **LAND USE STUDY: Garden Grove, California**  
**DATE: October 23, 1991**

**OVERVIEW:** This report by independent consultants summarizes statistical analyses to determine a basis for adult business regulations because of their negative impact on the community in terms of crime, decreased property values and diminished quality of life. Statistics were measured from 1981-90 and included crime data, and surveys of real estate professionals and city residents. Garden Grove Boulevard, with seven adult businesses, was selected as the study area. The study incorporated many control factors to insure accurate results. The report includes a brief legal history of adult

business regulation and an extensive appendix with samples, materials and a proposed statute.

**CRIME:** Crime increases significantly with the opening of an adult business or with the expansion of an existing business or the addition of a bar nearby. The rise was greatest in "serious" offenses (termed "Part I" crimes: homicide, rape, robbery, assault, burglary, theft and auto theft). On Garden Grove Boulevard, the seven adult businesses accounted for 36% of all crime in the area. In one case, a bar opened less than 500 feet from an adult business, and serious crime within 1,000 feet of that business rose more than 300% the next year.

**REAL ESTATE:** Overwhelmingly, respondents said that an adult business within 200-500 feet of residential and commercial property depreciates the property value. The greatest impact was on single family homes. The chief factor cited for the depreciation was the increased crime associated with adult businesses.

**HOUSEHOLD SURVEYS:** 118 calls were completed in a random sample of households in the Garden Grove Boulevard vicinity. The public consensus was that adult businesses on Garden Grove Boulevard were a serious problem. Nearly 25% of the surveyed individuals lived within 1,000 feet of an adult business. More than 21% cited specific personal experiences of problems relating to these businesses, including crime, noise, litter, and general quality of life. 80% said they would want to move if an adult business opened in their neighborhood, 60% saying they "would move" or "probably would move." 85% supported city regulation of the locations of adult businesses, with 78% strongly advocating the prohibition of adult businesses within 500 feet of a residential area, school or church. Women commonly expressed fear for themselves and their children because of adult businesses.

**RECOMMENDATIONS:** The report concludes that adult businesses have "real impact" on everyday life through harmful secondary effects and makes four recommendations: (1) keep current requirement of 1,000 feet separation between adult businesses; (2) prohibit adult establishments within 1,000 feet of residential areas; (3) enact a system of conditional use permits for adult businesses with Police Department involvement in every aspect of the process; and (4) prohibit bars/taverns within 1,000 feet of an adult business.

6. **LAND USE STUDY:** Houston, Texas  
DATE: November 3, 1983

**OVERVIEW:** Report by the Committee on the Proposed Regulation of Sexually Oriented Businesses determines the need and appropriate means of regulating such businesses. Four public hearings provided testimony from residents, business owners,

realtors, appraisers, police and psychologists. The committee and legal department then reviewed the transcripts and drafted a proposed ordinance. More hearings obtained public opinion on the proposal and the ordinance was refined for vote by the City Council.

**TESTIMONY:** The testimony was summarized into six broad premises: (1) the rights of individuals were affirmed; (2) sexually oriented businesses could exist within regulations that minimize their adverse effects; (3) the most important negative effects were on neighborhood protection, community enhancement, and property values; (4) problems increased when these businesses were concentrated; (5) such businesses contributed to criminal activities; and (6) enforcement of existing statutes were difficult.

**ORDINANCE:** (1) Required permits for sexually oriented businesses (non-refundable \$350 application fee); (2) distance requirements: 750 feet from a church or school; 1,000 feet from other such businesses; 1,000 foot radius from an area of 75% residential concentration; (3) amortization period of six months that could be extended by the city indefinitely on the basis of evidence; (4) revocation of permit for employing minors (under 17), blighting exterior appearance or signage, chronic criminal activity (three convictions), and false permit information; and (5) age restrictions for entry.

**LAND USE STUDY:** Houston, TX

**DATE:** January 7, 1997

**OVERVIEW:** This report by the Sexually Oriented Business Revision Committee to the City Council concerns a proposed amendment and addition to the present ordinance. The report summarizes prior efforts to regulate sexually oriented businesses, testimony by the Vice Division of the Houston Police Department, reports and requests, citizen correspondence, industry memos, legal department research, the public testimony taken by the Committee. The purpose of this report was to review the existing city ordinance and the city's ability to enforce it, and to assess and analyze the ordinance with respect to its strengths and weaknesses in terms of how effectively the ordinance protects the public and the businesses subject to regulation.

**FINDINGS/CONCLUSIONS:** (1) Because of criminal activities associated with sexually oriented businesses, requiring the licensing of entertainers and managers can establish a foundation for documenting those with prior convictions for prostitution, public lewdness, etc. and can help eliminate underage entertainers (under 18); (2) a serious predicament in obtaining convictions for public lewdness, prostitution, indecent exposure, and other criminal activities exists because police officers do not engage in inappropriate behavior and the entertainer thus avoids lewd behavior that might normally occur; (3) "glory holes" are used to promote anonymous sex and facilitate the spread of sexually transmitted diseases; (4) sexually oriented businesses that did not have clear

lines of vision encouraged lewd behavior or sexual contact; (5) multi-family tracts were being counted as one tract in the residential quota, although many families were living independently upon one tract; (6) inadequate lighting prevents managers and police officers from monitoring illegal activities, and one possible approach is to make lighting requirements similar to the minimum requirements of the Uniform Building Code for "exit" signs; (7) businesses with locked rooms were often used as fronts for prostitution; (8) public parks and possibly private parks should be included in distancing restrictions; (9) notification of a pending sexually oriented business permit should be given to surrounding neighbors of proposed sites; and (10) continuation of the amortization provisions of the previous ordinances would be preferable to grandfathering nonconforming sexually oriented businesses since grandfathering such businesses allows those uses to continue in perpetuity, creates a monopolistic position for such uses and prevents the municipality from exercising its power to protect its residents.

ORDINANCE: (1) Include "arcade devices" (enclosed booths) intended for viewing by less than one hundred persons in the prohibition for enclosed booths; (2) prohibit wall penetrations ("glory holes"); (3) increase distance requirements from 750 feet to 1,500 feet for churches, schools and day care centers, and increase the radius for counting residential tracts from 1,000 feet to 1,500 feet, without unduly restricting availability of locations; (4) for each acre of multi-family tract, utilize a ratio of eight single family tracts; (5) extend signage and exterior appearance restrictions to businesses located in multi-tenant centers; (6) require lighting of intensity to illuminate customer areas to not less than one foot candle as measured at four feet above floor level; (7) include public parks and if possible, private parks as protected land uses; (8) upon filing of a permit application, applicants must place signs at the premises and publish notices in the newspaper; (9) require permits for all entertainers and managers; (10) prohibit entertainers from touching customers; and (11) continue amortization of existing businesses with extensions of time for affected businesses to comply (prior average extensions were for about 2 to 3 years).

7. LAND USE STUDY: Indianapolis, Indiana  
DATED: February 1984

OVERVIEW: After a ten year growth in the number of sexually oriented businesses (to a total of 68 of 43 sites) and numerous citizens' complaints of decreasing property values and rising crime, the city compared six sexually oriented business "study" areas and six "control" locations with each other and with the city as a whole. The study and control areas had high population, low income and older residences. In order to develop a "best professional opinion," the city collaborated with Indiana University on a national survey of real estate appraisers to determine valuation effects of sexually oriented businesses on adjacent properties.

**CRJME:** From 1978-82, crime increases in the study areas were 23% higher than the control areas (46% higher than the city as a whole). Sex related crimes in the study areas increased more than 20% over the control areas. Residential locations in the study areas had a 56% greater crime increase than commercial study areas. Sex related crimes were four times more common in residential study areas than commercial study areas with sexually oriented businesses.

**REAL ESTATE:** Homes in the study areas appreciated at only 1/2 the rate of homes in the control areas, and 1/2 the rate of the city. "Pressures within the study areas" caused a slight increase in real estate listings, while the city as a whole had a 50% decrease, denoting high occupancy turnover. Appraisers responding to the survey said one sexually oriented business within one block of residences and businesses decreased their value and half of the respondents said the immediate depreciation exceeded 10%. Appraisers also noted that value depreciation on residential areas near sexually oriented businesses is greater than commercial locations. The report concludes: "the best professional judgment available indicates overwhelmingly that adult entertainment businesses – even a relatively passive use such as an adult bookstore -have a serious negative effect on their immediate environs."

**RECOMMENDATIONS:** Sexually oriented businesses locate at least 500 feet from residential areas, schools, churches or established historic areas.

#### 8. LAND USE STUDY: Los Angeles, California DATE: June 1977

**OVERVIEW:** The department of city planning studied the effects of the concentration of sexually oriented businesses on surrounding properties for the years 1969-75 (a time of proliferation for such businesses). The report focuses on five areas with the greatest concentration of these businesses (compared to five "control" areas free of them), and cites data from property assessments/sales, public meeting testimony, and responses from two questionnaires (one to business/residential owners within a 500 foot radius of the five study areas and a second to realtors/real estate appraisers and lenders). Crime statistics in the study areas were compared to the city as a whole. Also included: a chart of sexually oriented business regulations in eleven major cities, details of current regulations available under state/municipal law, and appendices with samples of questionnaires, letters, and other study materials.

**PROPERTY:** While empirical data from 1969-75 did not conclusively show the relation of property valuations to the concentration of sexually oriented businesses, more than 90% of realtors, real estate appraisers and lenders responding to city questionnaires said that a grouping of such businesses within 500-1,000 feet of residential property decreases the market value of the homes. Also, testimony from residents and business

people at two public meetings spoke overwhelmingly against the presence of sexually oriented businesses citing fear, concern for children, loss of customers and difficulty in hiring employees at non-adult businesses, and the necessity for churches to provide guards for their parking lots.

**CRIME:** More crime occurred in areas of sexually oriented business concentration. Compared to city-wide statistics for 1969-75, areas with several such businesses experienced greater increases in pandering (340%), murder (42.3%), aggravated assault (45.2%), robbery (52.6%), and purse snatching (17%). Street robberies, where the criminal has face-to-face contact with his victim, increased almost 70% more in the study areas. A second category of crime, included other assaults, forgery, fraud, counterfeiting, embezzlement, stolen property, prostitution, narcotics, liquor laws, and gambling increased 42% more in the study areas over the city as a whole.

**RECOMMENDATIONS:** The study recommended distances of more than 1,000 feet separating sexually oriented businesses from each other, and a minimum of 500 feet separation of such businesses from schools, parks, churches and residential areas.

9. **LAND USE STUDY: Minneapolis, Minnesota**  
**DATE: October 1980**

**OVERVIEW:** This report is divided into two sections: the relationship of bars and crime and the impact of "adult businesses" on neighborhood deterioration. In the study, an "adult business" is one where alcohol is served (including restaurants) or a sexually oriented business (*i.e.*, saunas, adult theaters and bookstores, rap parlors, arcades, and bars with sexually oriented entertainment). Census tracts were used as study areas and evaluated for housing values and crime rates. Housing values were determined by the 1970 census compared to 1979 assessments. Crime rates were compared for 1979-80. The study is strictly empirical and reported in a formal statistical manner; therefore it is difficult for layman interpretation of the data.

**FINDINGS:** The report concludes that concentrations of sexually oriented businesses have significant relationship to higher crime and lower property values. Other than statistical charts, no statements of actual crime reports or housing values are included in the report. Thus, the lay reader has only the most generalized statement of how the committee interpreted the empirical data.

**RECOMMENDATIONS:** First, that adult businesses be at least 1110 mile (about 500 feet) from residential areas. Second, that adult business should not be adjacent to each other or even a different type of late night business (*i.e.*, 24-hour laundromat, movie theaters). Third, that adult businesses should be in large commercial zones in various

parts of the city (to aid police patrol and help separate adult businesses from residential neighborhoods). The report said "policies which foster or supplement attitudes and activities that strengthen the qualities of the neighborhood are more likely to have desired impacts on crime and housing values than simple removal or restriction of adult businesses."

10. LAND USE STUDY: New York, New York  
DATE: November 1994

· **OVERVIEW:** This study by the Department of City Planning evaluates the nature and extent of adverse impacts associated with adult entertainment uses in communities in New York City, in response to the proliferation of such uses (35% increase in past 10 years) and the fact that current zoning regulations did not distinguish between adult entertainment uses and other commercial uses without an "adult character." The study reviewed studies in other localities, including Islip, Los Angeles, Indianapolis, Whittier, Austin, Phoenix, and the State of Minnesota, as well as prior studies conducted in New York City. Surveys in six study areas within the city (with lesser concentrations of adult uses than Times Square) were conducted of representatives from community boards, local organizations and local businesses, as well as real estate brokers, police and sanitation officers, and representatives of the adult entertainment industry to gather information on land use, street and signage conditions, and other impacts of adult entertainment uses. An analysis of assessed values and crime data was also made.

**FINDINGS:** More than 75% of adult uses are located in zoning districts that permit residential uses. Adult uses tend to concentrate, as 75% of the adult uses are located in ten of the city's 59 Community Districts. Adult uses tend to cluster in central locations or along major vehicular routes. Adult use accessory business signs are characterically at odds with neighborhood character- such signs generally occupy a greater percentage of storefront surface area, are more often illuminated and more often portray graphic, sexually-oriented images than the signs of other nearby commercial uses. 80% of surveyed real estate brokers reported that an adult entertainment use would have a negative impact upon the market value of property within 500 feet, and a majority indicated the same would occur within 500 to 1,000 feet. 80% of surveyed community organizations responded that adult entertainment uses negatively impact the community in some way, and almost 50% of surveyed businesses responded that they believed their businesses would be negatively affected if more adult uses were to locate nearby. Community residents expressed the strongest negative reactions to adult uses, and expressed fear of the consequences of the proliferation and concentration of adult uses in neighborhood-oriented shopping areas and of a deterioration in the quality of urban life, even in study areas where it could not be readily determined that negative impacts were being felt. Attitudinal data of the surveys are significant even where the negative impacts are currently difficult to measure, since negative perceptions associated with an

area can lead to disinvestment in residential neighborhoods and economic decline because of a tendency to avoid such shopping areas. The analysis of criminal complaint data and property assessed valuation data was less conclusive than the surveys.

**RECOMMENDATIONS:** The study concludes that it is appropriate to regulate adult entertainment establishments differently from other commercial establishments. Because of the negative impacts of adult uses in concentration, restrictions on the location of adult uses in proximity to residential areas, to houses of worship, to schools and to each other should be considered in developing adult use regulations.

11. **LAND USE STUDY:** Newport News, Virginia  
**DATED:** March 1996

12. **LAND USE STUDY:** Oklahoma City, Oklahoma  
**DATED:** March 3, 1986

**OVERVIEW:** This study contains the results of a survey of 100 Oklahoma City real estate appraisers. Appraisers were given a hypothetical situation and a section to comment on the effect of sexually oriented businesses in Oklahoma City. The hypothetical situation presented a residential neighborhood bordering an arterial street with various commercial properties which served the area. A building vacated by a hardware store was soon to be occupied by an "adult" bookstore. No other sexually oriented businesses were in the area and no other vacant commercial space existed. With less than a one month response time, 34 completed surveys were received by the city.

**FINDINGS:** 32% of the respondents said that such a bookstore within one block of the residential area would decrease home values by at least 20%. Overwhelmingly, respondents said an "adult" bookstore would negatively effect other businesses within one block (76%). The level of depreciation is greater for residences than businesses. The negative effects on property values drop sharply when the sexually oriented business is at least three blocks away. In the subjective portion, 85% of the respondents noted a negative impact on sexually oriented businesses on Oklahoma City. Frequent problems cited by the appraisers included the attraction of undesirable clients and businesses, safety threats to residents and other shoppers (especially children), deterrence of home sales and rentals, and immediate area deterioration (trash, debris, vandalism).

**CONCLUSIONS:** Oklahoma City's findings supported results from other national studies and surveys. Sexually oriented businesses have a negative effect on property values, particularly residential properties. The concentration of sexually oriented businesses may mean large losses in property values.

13. LAND USE STUDY: Phoenix, Arizona  
DATE: May 25, 1979

OVERVIEW: The study examines crime statistics for 1978 comparing areas which have sexually oriented businesses with those that do not. The results show a marked increase in sex offenses in neighborhoods with sexually oriented businesses, with modest increases in property and violent crimes as well.

Three study areas (near locations of sexually oriented businesses) and three control areas (with no sexually oriented businesses) were selected. The study and control areas were paired according to the number of residents, median family income, percentage of non-white population, median age of population, percentage of dwelling units built since 1950, and percentage of acreage used for residential and no-residential purposes.

CRIME: Three categories of criminal activity were included in the study: property crimes (burglary, larceny, auto theft), violent crimes (rape, murder, robbery, assault), and sex crimes (rape, indecent exposure, lewd and lascivious behavior, child molestation).

Average results from all three study/control areas, sex offenses were 506% greater in neighborhoods where sexually oriented businesses were located. (In one study area, sex crimes were more than 1,000% above the corresponding control area.) Property crimes were 43% greater. Violent crimes were only slightly higher (4%). Even excluding indecent exposure arrests (the most common sex offense), other sex crimes (rape, lewd and lascivious behavior, child molestation) in the study areas were 132% greater than control areas.

REQUIREMENTS: The Phoenix ordinance requires sexually oriented businesses to be located at least 1,000 feet from another sexually oriented business and 500 feet from a school or residential zone. Approval by the city council and area residents can waive the 500 foot requirement. A petition which is signed by 51% of the residents in the 500 foot radius who do not object must be filed and verified by the planning director.

14. LAND USE STUDY: Seattle, Washington  
DATED: March 24, 1989

OVERVIEW: The report concerns a proposed amendment to add topless dance halls to existing land use regulations for "adult entertainment establishments." Seattle had eight such dance halls (termed "adult cabarets"), six established since 1987. The study relies on reports from a number of cities, including Indianapolis, Los Angeles, Phoenix, Austin and Cleveland.

**FINDINGS:** The increased number of cabarets resulted in citizen complaints, including phone calls, letters (from individuals and merchant associations), and several petitions with hundreds of signatures. Protests cited decreased property values; increased insurance rates; fears of burglary, vandalism, rape, assaults, drugs, and prostitution; and overall neighborhood deterioration. The report notes that patrons of these cabarets most often are not residents of nearby neighborhoods. Without community identity, behavior is less inhibited. Increased police calls to a business, sirens, and traffic hazards from police and emergency vehicles are not conducive to healthy business and residential environments.

**RECOMMENDATIONS:** Since city zoning policy is based on the compatibility of businesses, the report recommends that the cabarets locate in the same zones as "adult motion picture theaters." This plan allows about 130 acres for such businesses to locate throughout the city.

15. **LAND USE STUDY: Times Square (New York City), New York**  
**DATE: April 1994**

**OVERVIEW:** This study commissioned by the Times Square Business Improvement District ("TSBID") evaluates the effect of adult use businesses on the city's TSBID, and more specifically, on the areas within the TSBID where such businesses are densely concentrated. The study combined analysis of available data on property values and incidence of crime with a demographic and commercial profile of the area to determine the relationship between the concentration of adult use businesses and negative impacts on businesses and community life. The study also included 54 interviews conducted with a broad range of diverse business and real estate enterprises, including major corporations, smaller retail stores, restaurants, theatres and hotels, as well as Community Boards, block associations, activists and advocates, churches, schools and social service agencies.

**REAL ESTATE:** This part of the study compared the assessed property values over time, and the rate of change, of four study blocks and contrasting control blocks where no adult use businesses existed. This analysis also compared the study and control blocks' assessed valuation to that of the TSBID, Manhattan, and the city as a whole. The rate of increase of the total actual assessed values of the study blocks between 1985 and 1993 was less than the rate of increase for the control blocks during the same period. An assessment of the study blocks also revealed that the rates of increases in assessed value for properties with adult establishments was greater than the increase for properties on the same blockfront without adult establishments (possibly because of greater rents paid by some adult establishments). A high official in the Department of Finance indicated that the presence of adult use businesses adversely affects neighboring properties since

such presence is factored into the locational aspect of the appraisal formula.

**CRIME:** This part of the study compared the number of criminal complaints over a three month period for the study blocks and the control blocks. There were about twice as many criminal complaints for the study blocks as the control blocks. There was a reduction in criminal complaints the further away from the study block area of dense concentration of adult use businesses. The heaviest incidence of prostitution arrests also occurred in the study block area of dense concentration of adult use businesses. The study also noted that police statistics showed a decrease in crime in Times Square for the past five year period, which paralleled the decrease in the number of adult use businesses.

**INTERVIEWS:** Property and business owners expressed the view that adult use businesses have a negative effect on the market or rental values of businesses located in their vicinity, and emphasized the negative effects of a concentration of such businesses in affecting the overall image of the area. Restaurant owners expressed that the presence of adult use businesses was not good for their businesses, created a perception that the area was unsavory, made it difficult to book corporate parties, and negatively affected their businesses because of the flamboyant advertising. Community residents and organizations expressed their belief that adult use businesses attract loiterers, drug dealers, and prostitutes, and result in increased instances of criminal activity.

16. **LAND USE STUDY: Tucson, Arizona**  
**DATED: May 1, 1990**

**OVERVIEW:** This report is a memorandum from Police Department Investigative Services to the City Prosecutor describing events and activities at "adult entertainment bookstores and establishments" that support stronger ordinances. Investigation had been in progress since 1986 following numerous complaints of illegal sexual activity and unsanitary conditions.

**FINDINGS:** Officers found a wide variety of illegal sexual conduct at all adult businesses. At virtually every such business, employees were arrested for prostitution or obscene sex shows. Dancers were usually prostitutes where, for a price, customers could observe them performing live sex acts. At several businesses, customers were allowed inside booths with dancers and encouraged to disrobe and masturbate. Many times, dancers would require customers to expose themselves before they would perform. Underage dancers were found, the youngest being a 15 year old female.

Within peep booths, officers found puddles of semen on the floor and walls. If customers had used tissues, these were commonly on the floor or in the hallway. On two occasions, fluid samples were collected from the booths. In the first instance, 21 of 26

samples (81%) tested positive for semen. In the second sampling, 26 of 27 fluid samples (96%) tested positive for semen. "Glory holes" in the walls between adjoining booths facilitated anonymous sex acts between men.

**RECOMMENDATIONS:** (1) The bottom of the door in peep booths must be at least 30 inches from the floor so that an occupant can be seen from waist down when seated; (2) the booth cannot be modified nor can a chair be used to circumvent the visibility of the client; (3) employee licensing that includes a Police Department background check; and (4) in the event of a denied or revoked license, the requirement of a hearing before any action is taken.

17. **LAND USE STUDY: Whittier, California**  
**DATE: January 9, 1978**

**OVERVIEW:** After experiencing a rapid growth of sexually oriented businesses since 1959, the Whittier City Council commissioned a study of the effects of businesses on the adjacent residential and commercial area. At the time of the study, Whittier had 13 such businesses: six model studios, four massage parlors, two bookstores, and one theater. Utilizing statistics, testimonies, and agency reports, the study compared two residential areas and four business areas over a span of ten years (1968-1977). One residential area was near the largest concentration of sexually oriented businesses, the other had no commercial frontage but was chosen because of similar street patterns, lot sizes and number of homes. For businesses, Area 1 had six sexually oriented businesses, Area 2 had one, Area 3 had three, and Area 4 had none. 1973 was selected as the year to compare before/after effect of these businesses. Two chief concerns cited in the report are residential/business occupancy turnover and increased crime.

**OCCUPANCY TURNOVER:** After 1973, 57% of the homes in the sexually oriented business area had changes of occupancy, compared to only 19% of the non-sexually oriented business area. Residents complained of "excessive noise, pornographic material left laying about, and sexual offenders (such as exhibitionists) venting their frustrations in the adjoining neighborhood." Citizens also expressed concern about drunk drivers coming into the area. Business Area 1, with the highest concentration of sexually oriented businesses (6), experienced a 134% increase in annual turnover rate. Area 3, with three adult businesses at one location, showed a 107% turnover rate. Area 2 (with one adult business) had no measurable change and Area 4 (with no commercial or sexually oriented businesses) experienced a 45% decrease in turnover from similar periods.

**CRIME:** The city council looked at the two residential areas for the time periods of 1970-73 (before sexually oriented businesses) and 1974-77 (after such businesses). In the sexually oriented business area, criminal activity increased 102% (the entire city had

only an 8.3% increase). Certain crimes skyrocketed (malicious mischief up 700%; all assaults up 387%; prostitution up 300%). All types of theft (petty, grant, and auto), increased more than 120% each. Ten types of crime were reported of the first time ever in the 1974-77 period.

**RECOMMENDATIONS:** The council's report recommended a disbursement type ordinance that prohibits sexually oriented businesses closer than 500 feet to residential areas, churches, and schools. Distances between such businesses was recommended at 1,000 feet. In addition, the study proposed a 1,000 foot separation from parks because of their use by citizens after normal working hours. Sexually oriented businesses would be given an 18-36 month amortization period (if the change involved only stock in trade, a 90 days period was recommended).

## **ATTACHMENT 4**

### **Available Site Summary**



# **SAN BERNARDINO COUNTY PROPOSED ADULT BUSINESS ORDINANCE**

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## **Available Sites Summary**

**December 4, 2013**

### **Prepared by:**

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Environmental Science Associates  
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Los Angeles, CA 90017  
213.599.4300 **phone**  
213.599.4301 **fax**  
[www.esassoc.com](http://www.esassoc.com)

**Available Sites in IC Zone 500' from Sensitive Uses**

Cluster Map #	Desert	Mountains	Valley	Total
A	3			3
B	5			5
C			25	25
D			34	34
E			14	14
F			62	62
				0
TOTAL	8	0	135	143

**Available Sites in CG Zone 500' from Sensitive Uses (250' from Residential Use in RL Zone)**

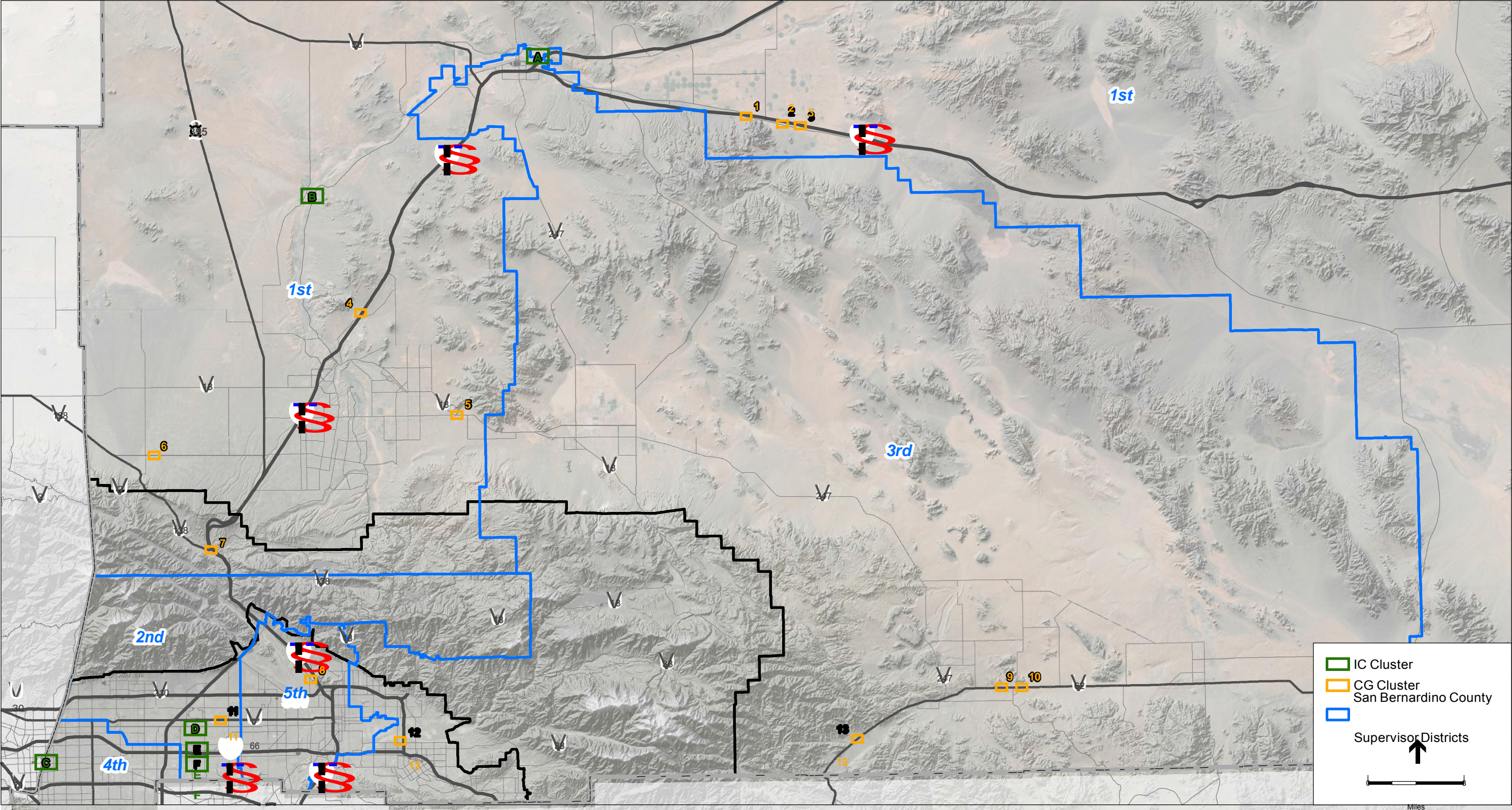
Cluster Map #	Desert	Mountains	Valley	Total
1	2			2
2	3			3
3	2			2
4	1			1
5	8			8
6	4			4
7		2		2
8			2	2
9	12			12
10	4			4
11			8	8
12			3	3
13	8			8
TOTAL	44	2	13	59

**Total Available Sites, CG and IC Zones**

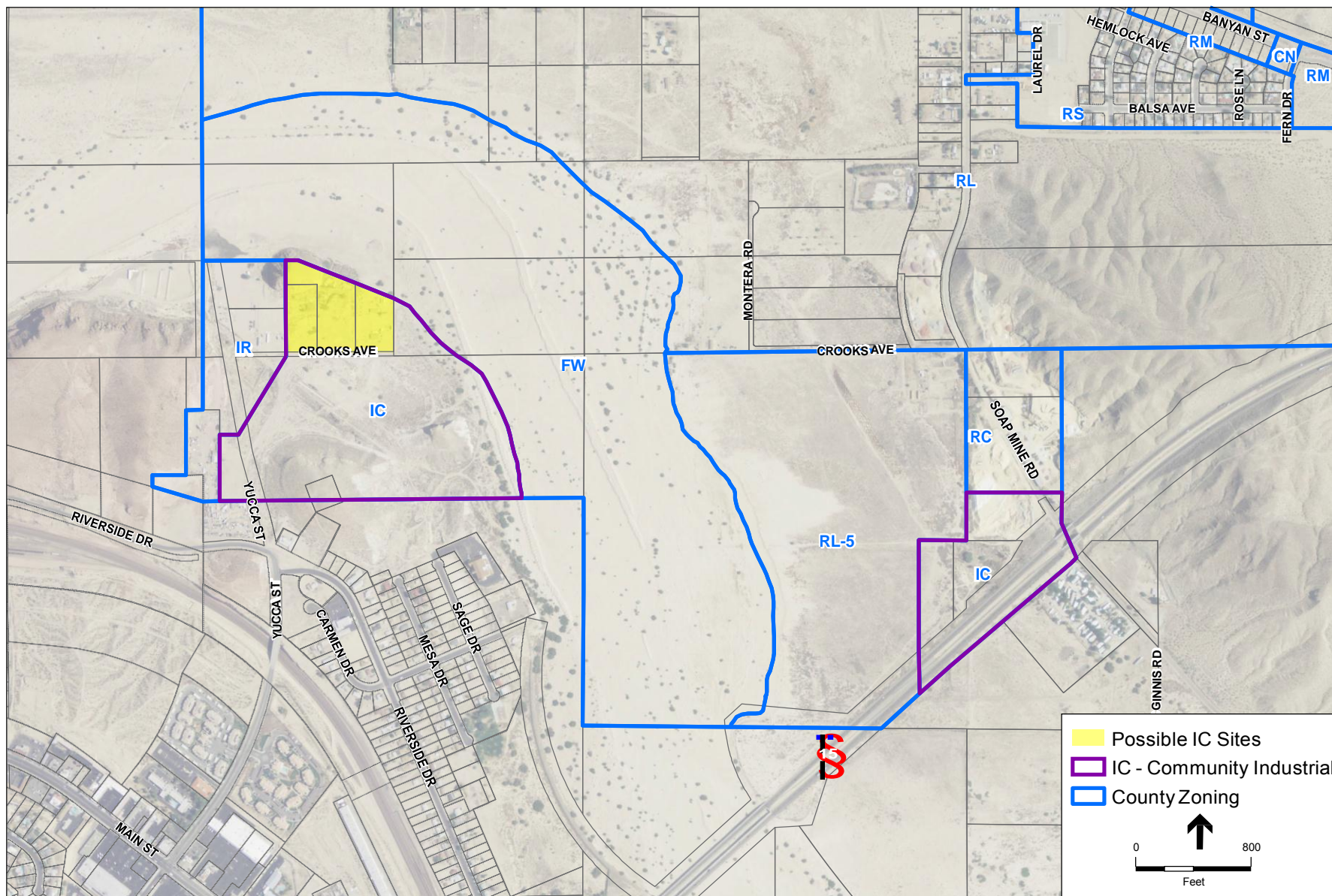
	CG Zone	IC Zone	Total
Desert	44	8	52
Mountain	2	0	2
Valley	13	135	148
Total	59	143	202

## Available Sites with 1000' Separation between Adult Businesses

Cluster Map #	Desert	Mountains	Valley	Total
A	1			1
B	1			1
C			1	1
D			5	5
E			1	1
F			3	3
1	1			1
2	2			2
3	1			1
4	1			1
5	2			2
6	2			2
7		1		1
8			1	1
9	1			1
10	1			1
11			1	1
12			1	1
13	1			1
TOTAL	14	1	13	28

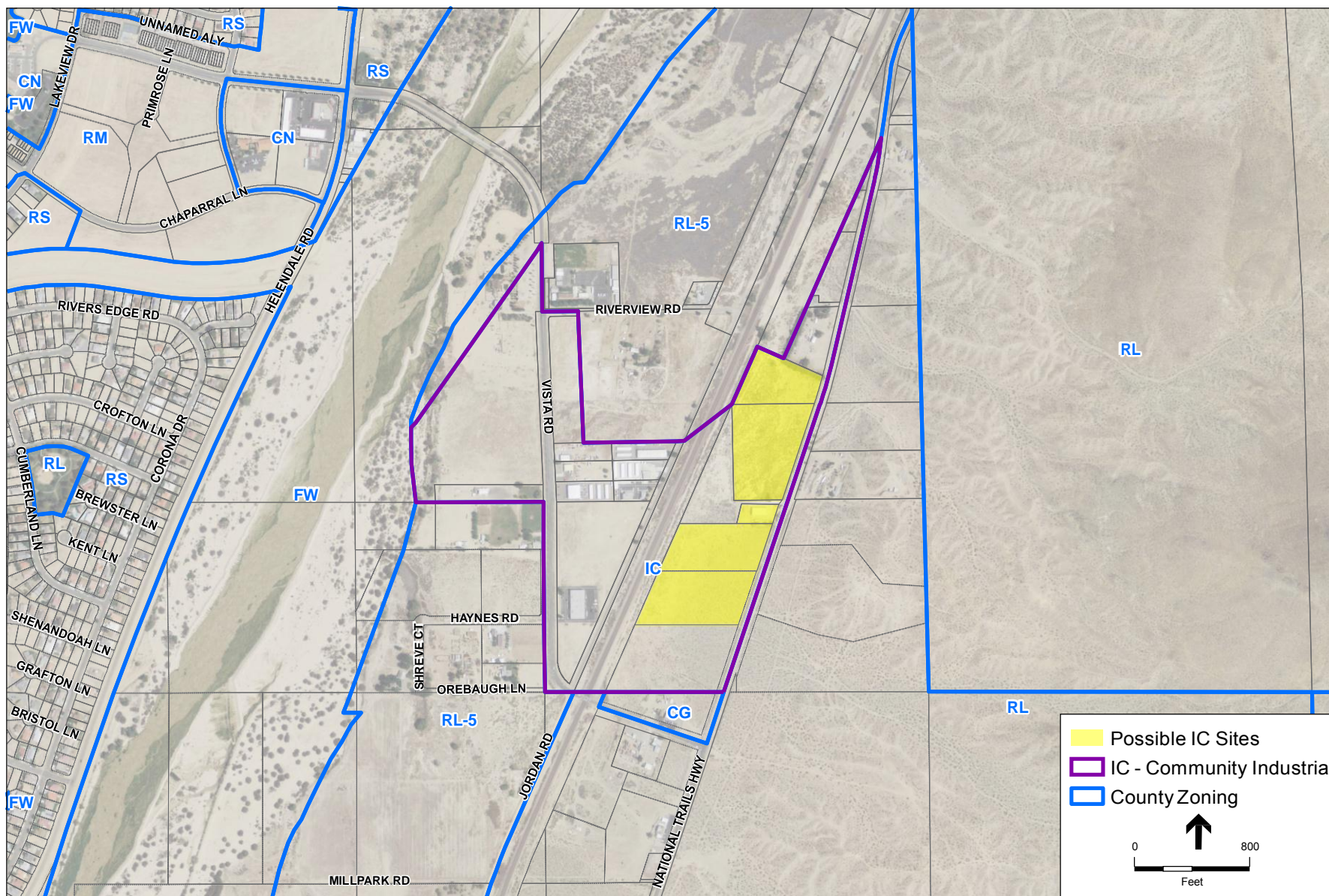


SOURCE: BLM; San Bernardino County, 2012.



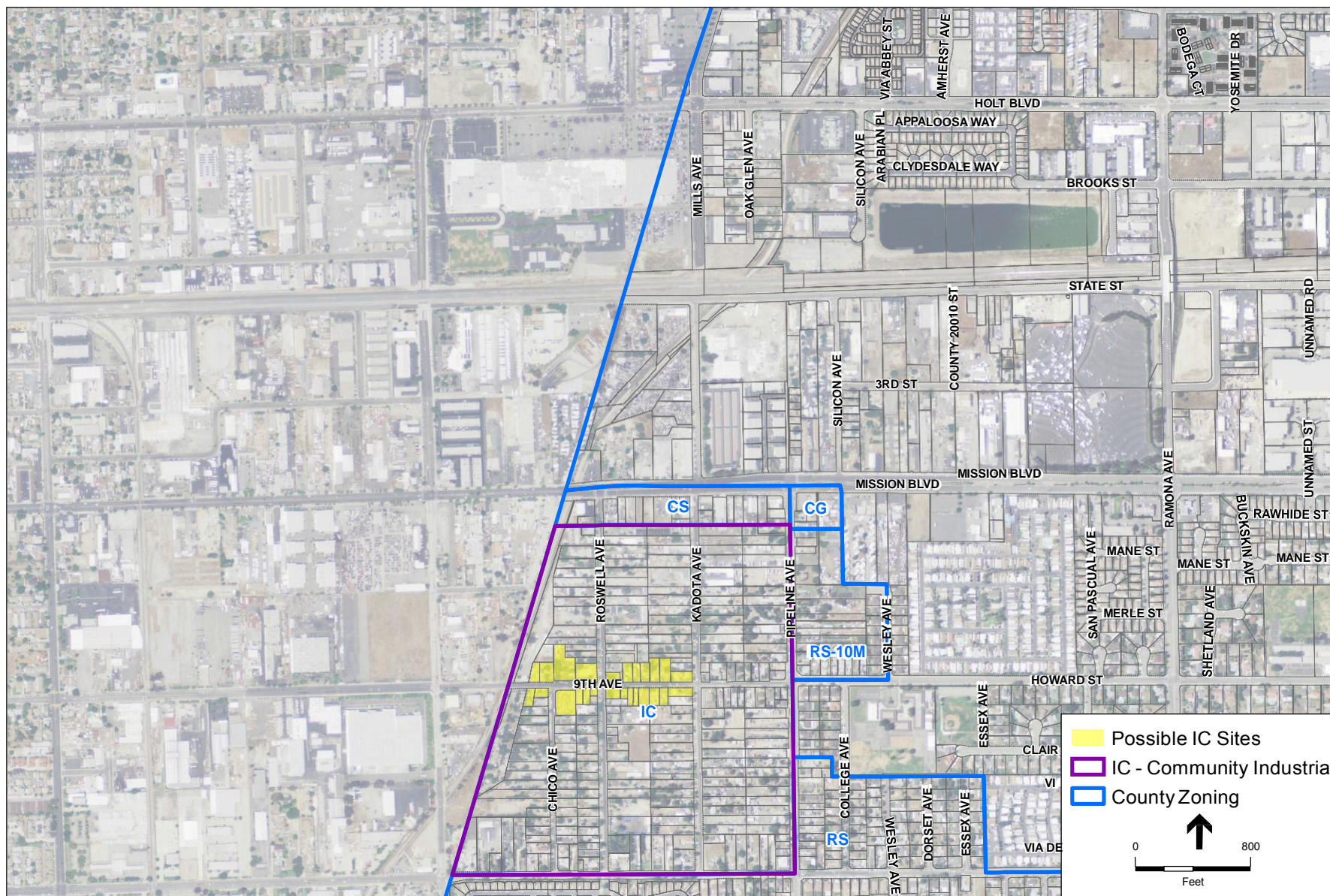
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster A**  
 Community Industrial Zoning



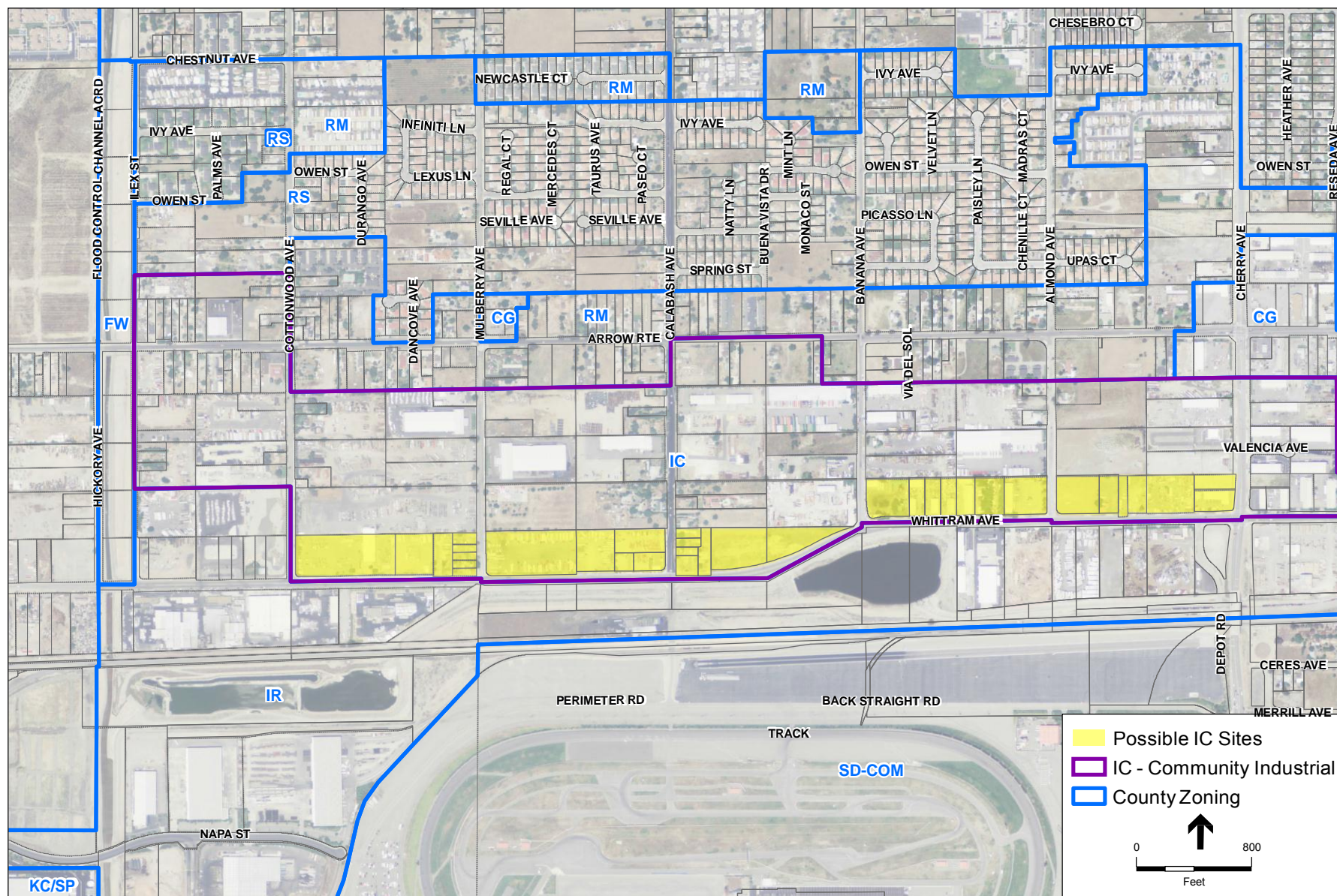
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster B**  
 Community Industrial Zoning



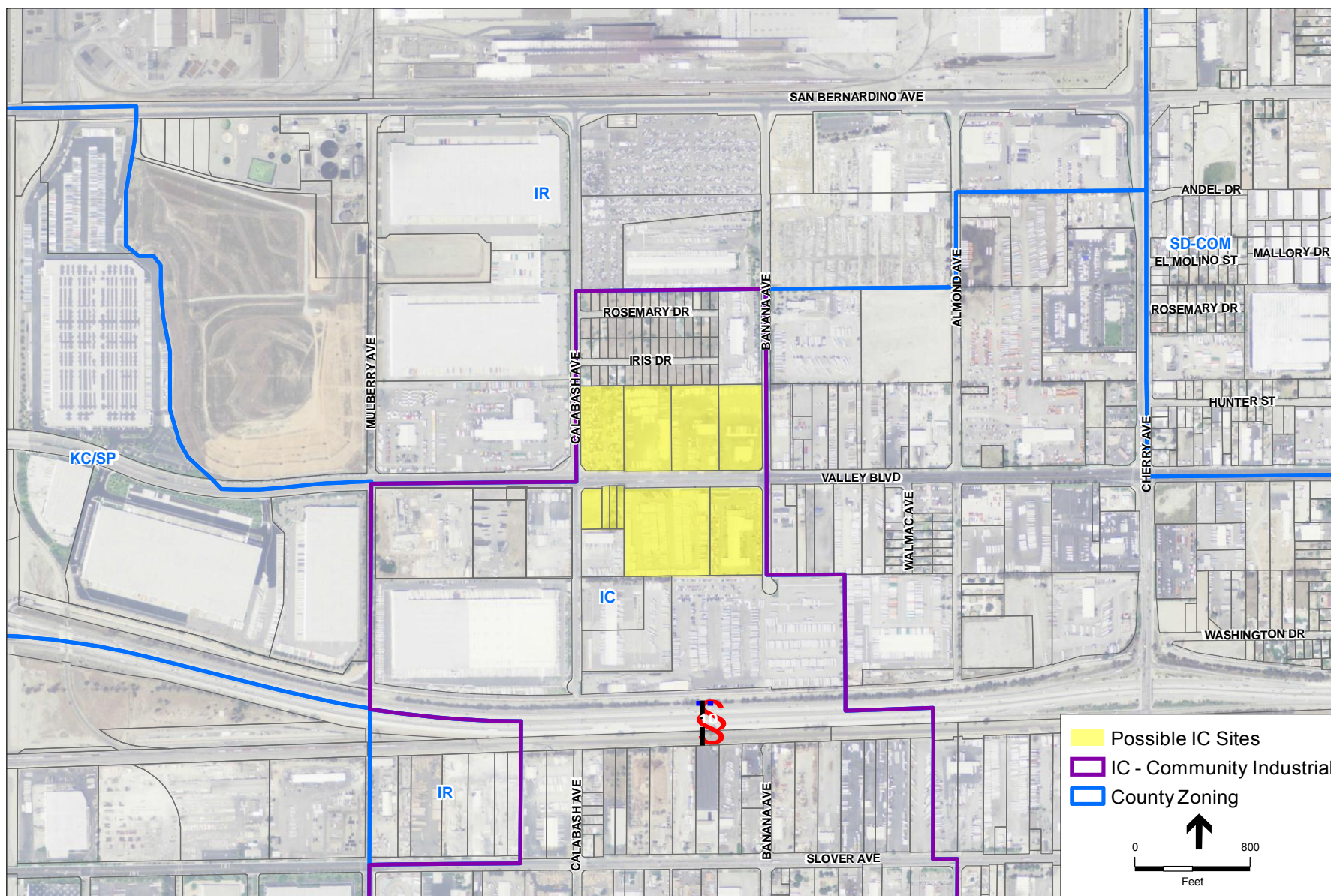
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster C**  
 Community Industrial Zoning



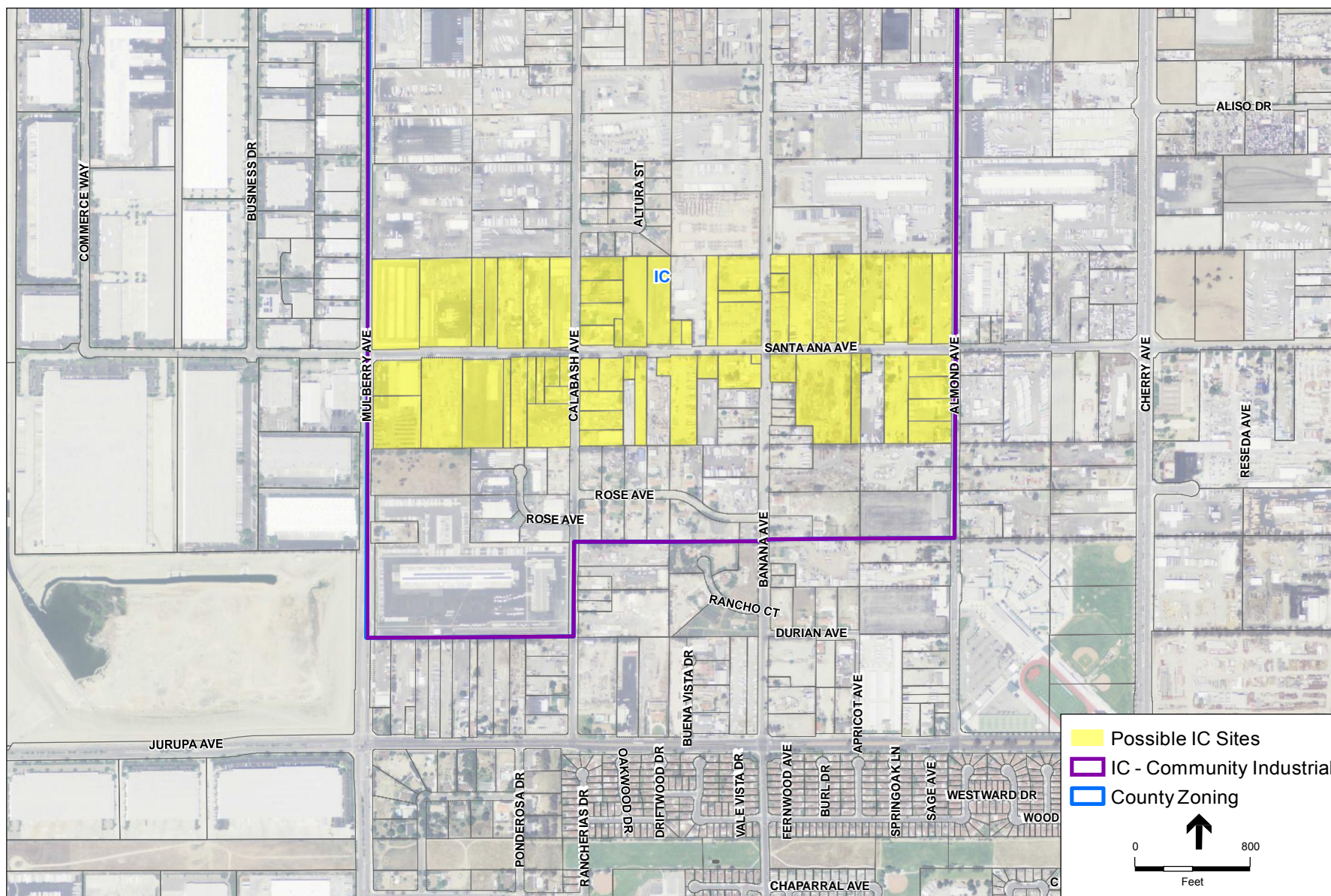
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster D**  
 Community Industrial Zoning



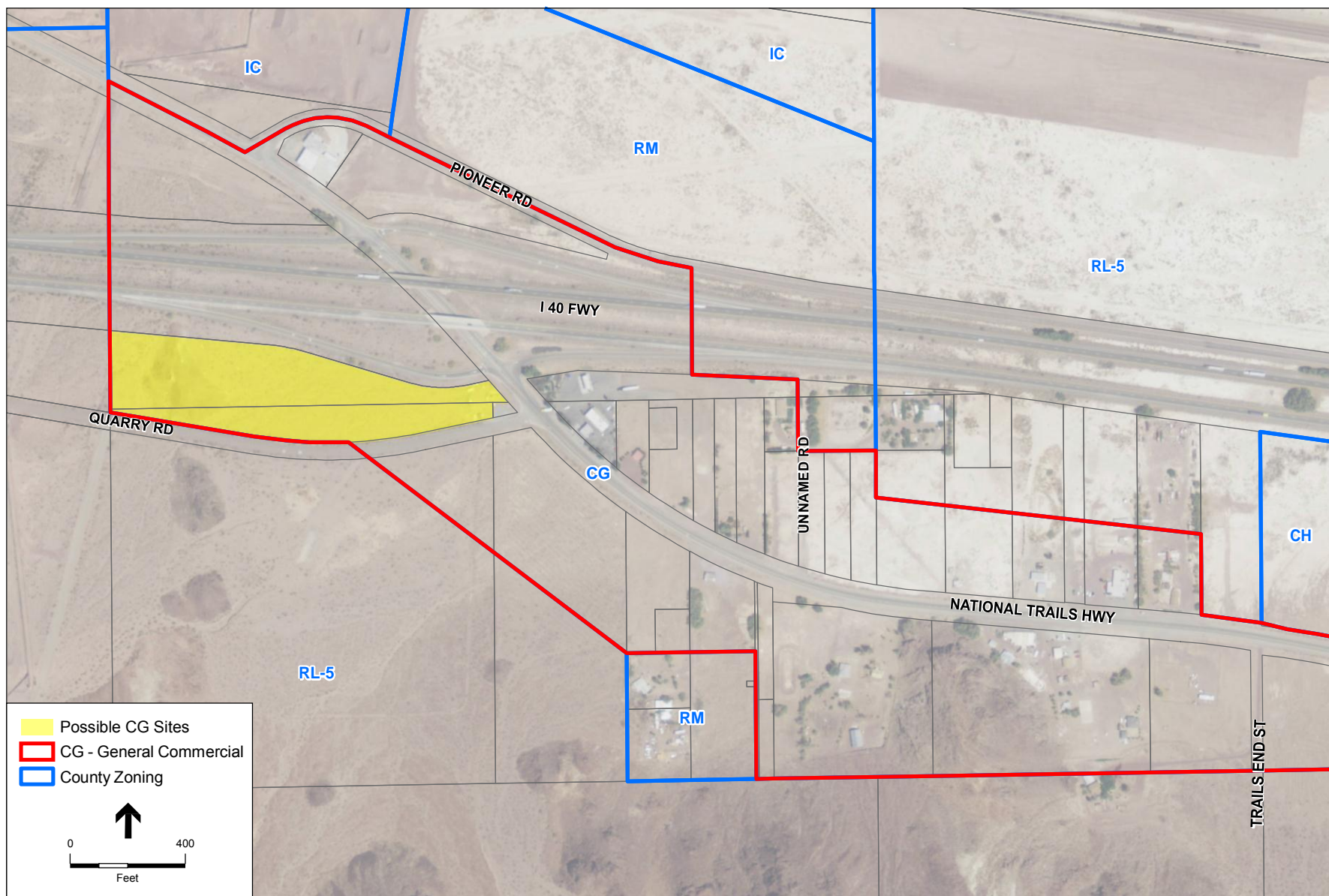
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster E**  
 Community Industrial Zoning



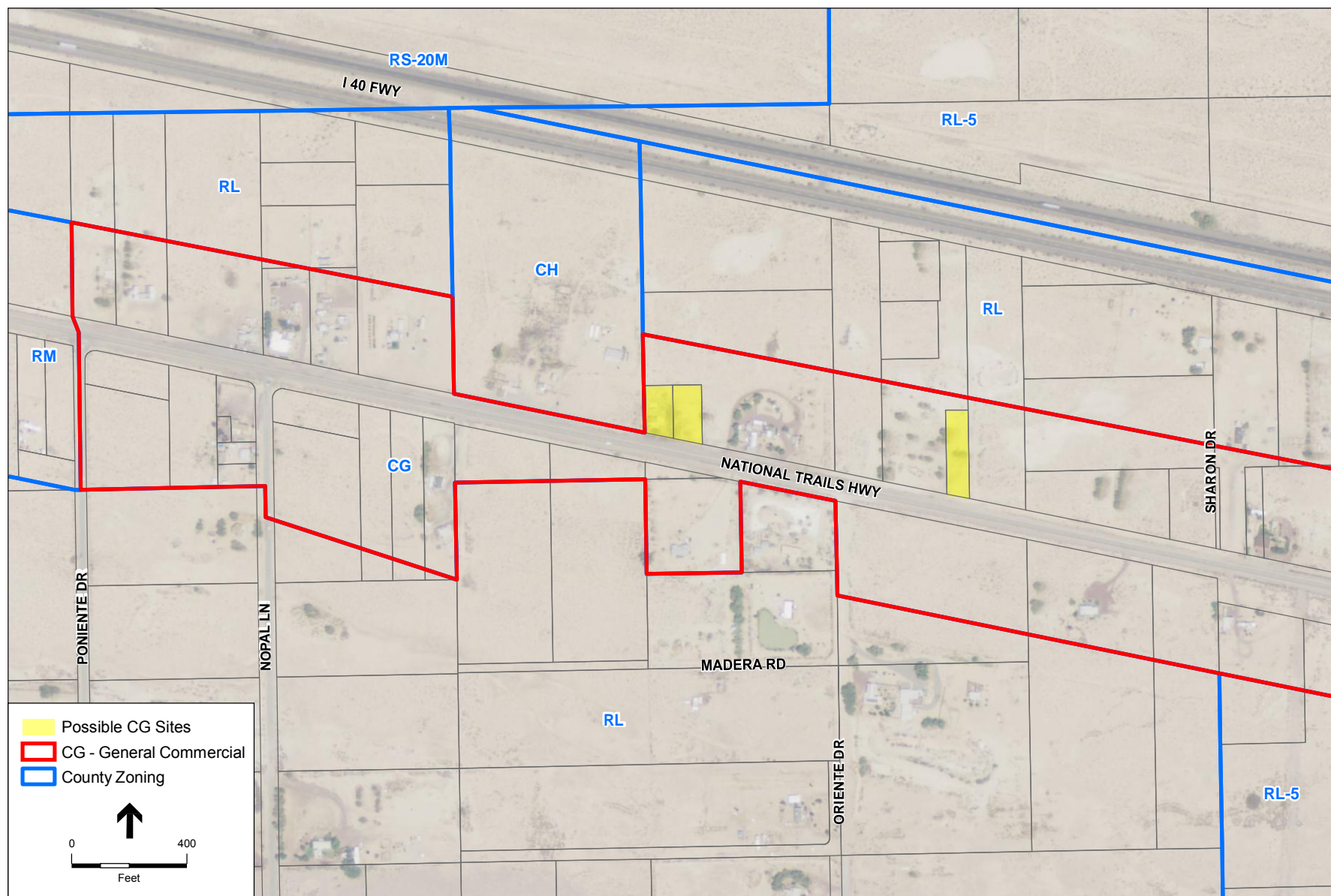
SOURCE: Bing Maps; San Bernardino County GIS

San Bernardino County . 120850  
**Cluster F**  
 Community Industrial Zoning



SOURCE: San Bernardino County GIS; ESA, 2012.

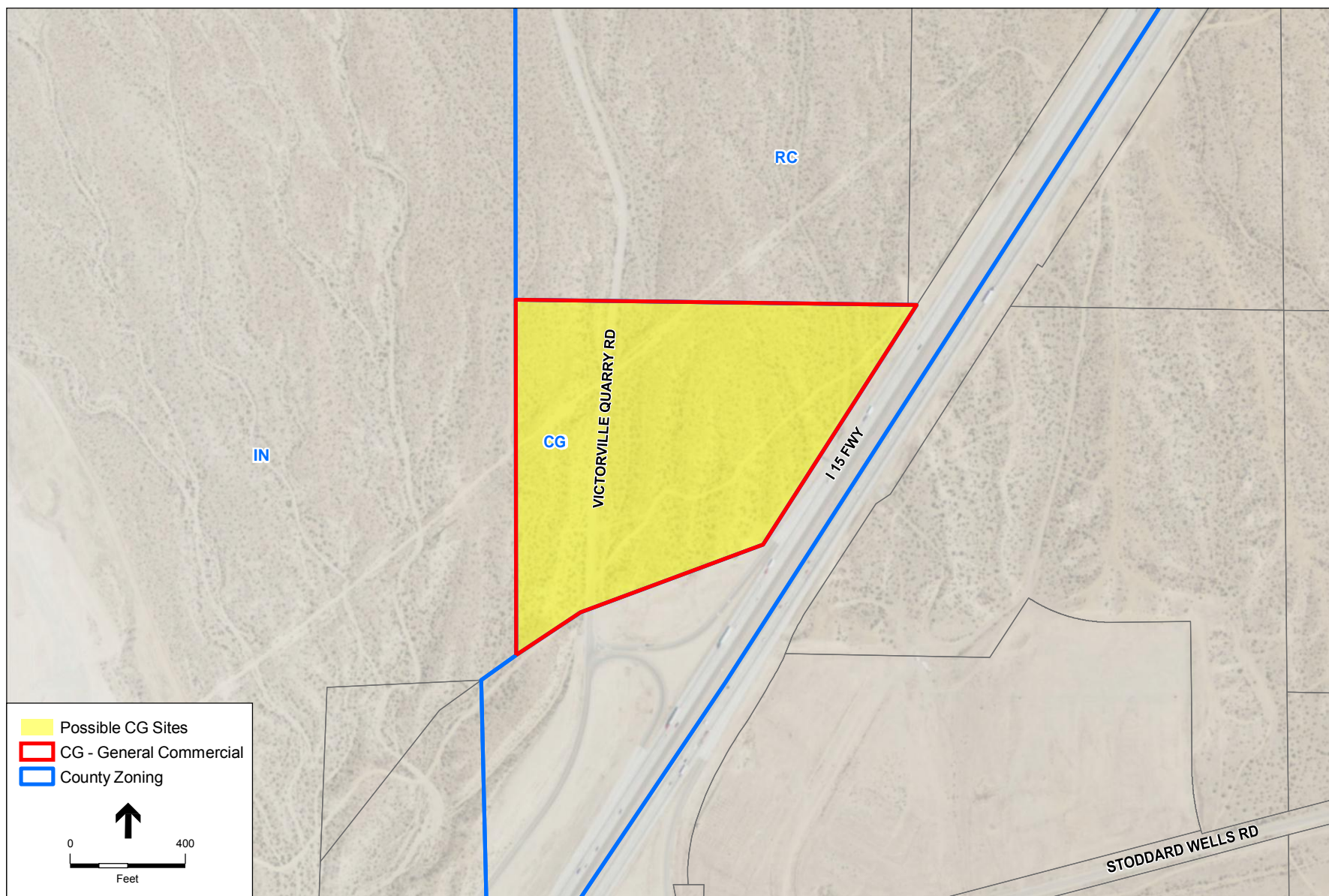
San Bernardino County - 120850  
**Cluster 1**  
 General Commercial Zoning



SOURCE: San Bernardino County GIS; ESA, 2012.

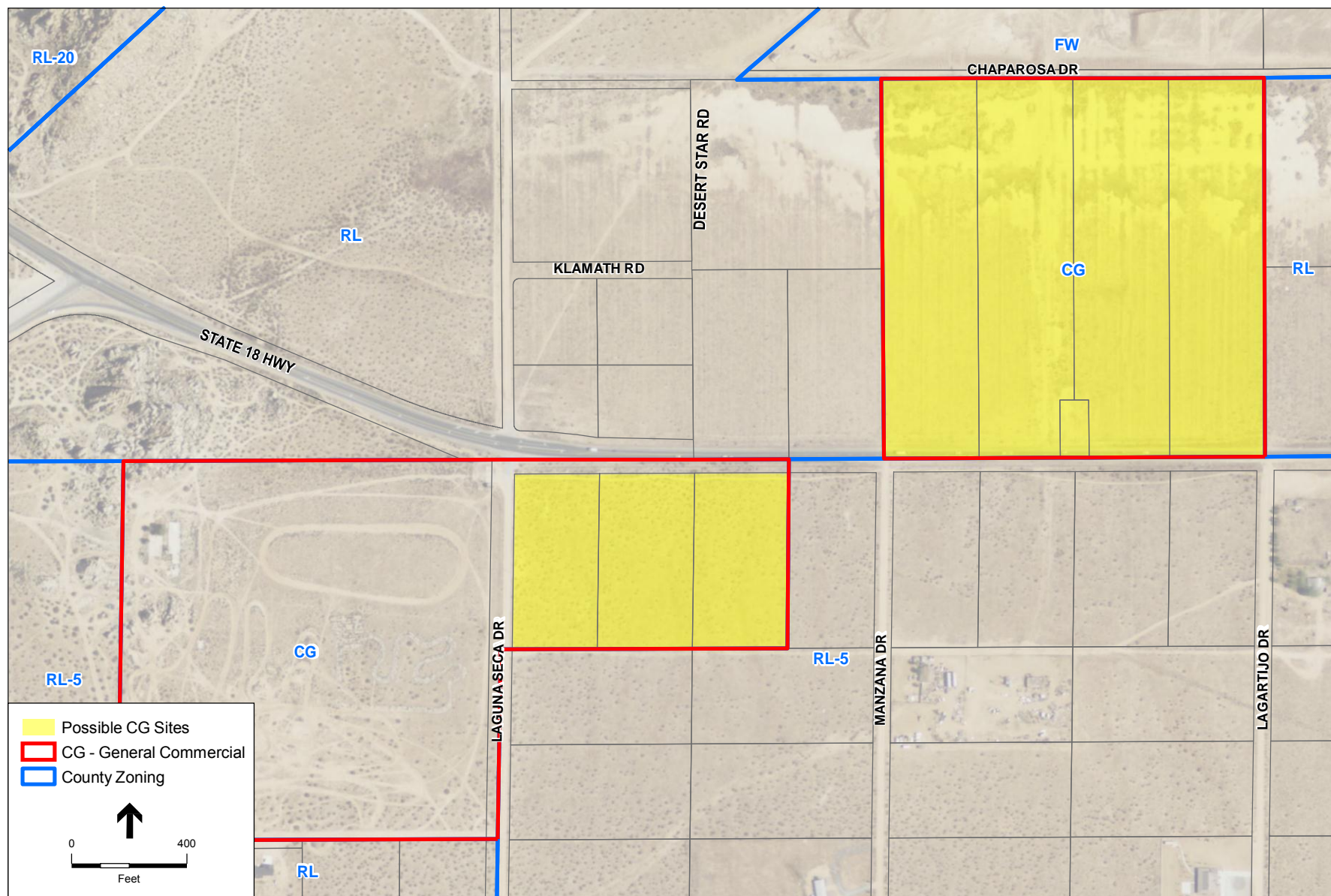
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**Cluster 2**  
General Commercial Zoning

San Bernardino County . 120850  
**Cluster 3**  
General Commercial Zoning



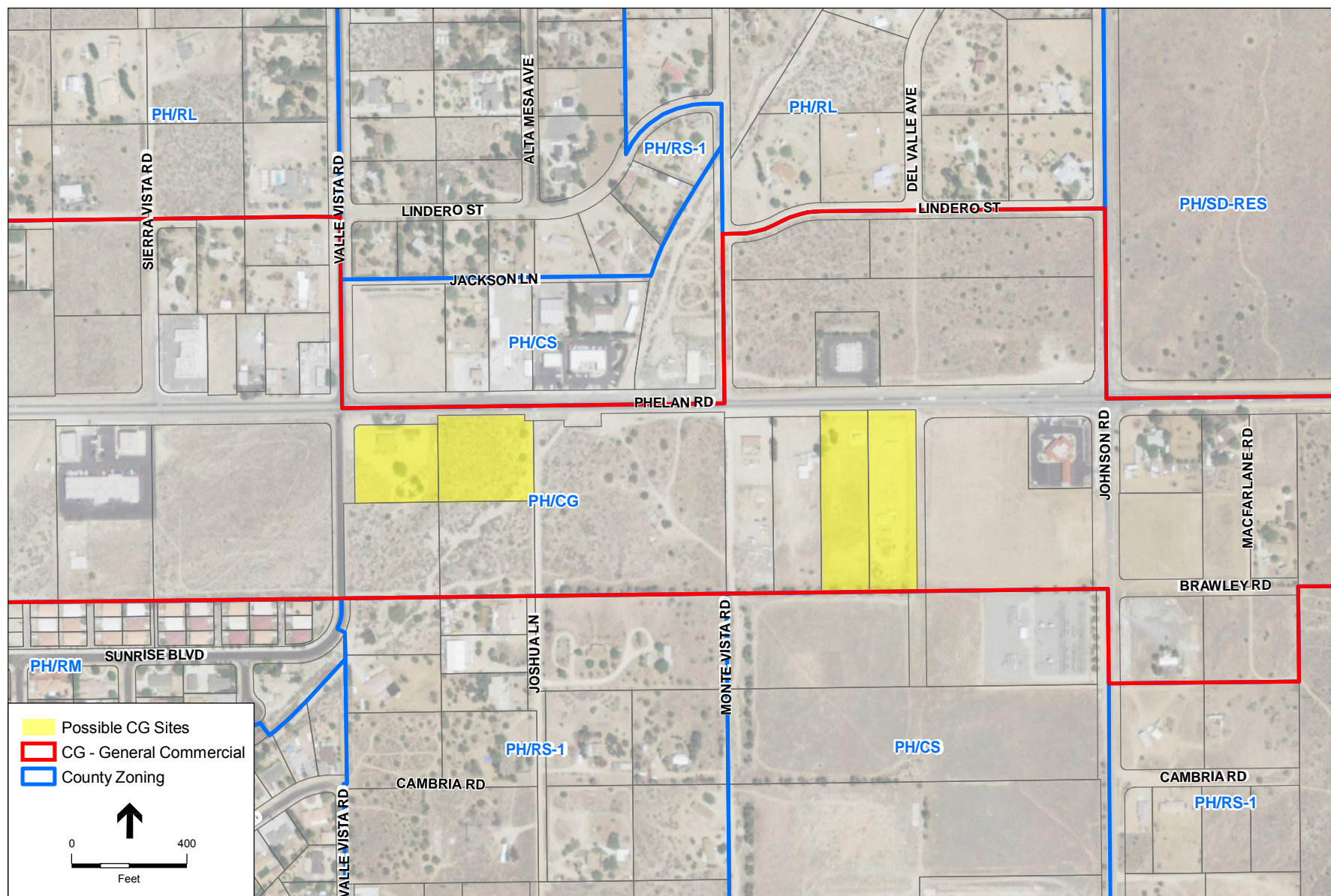
SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County . 120850  
**Cluster 4**  
General Commercial Zoning



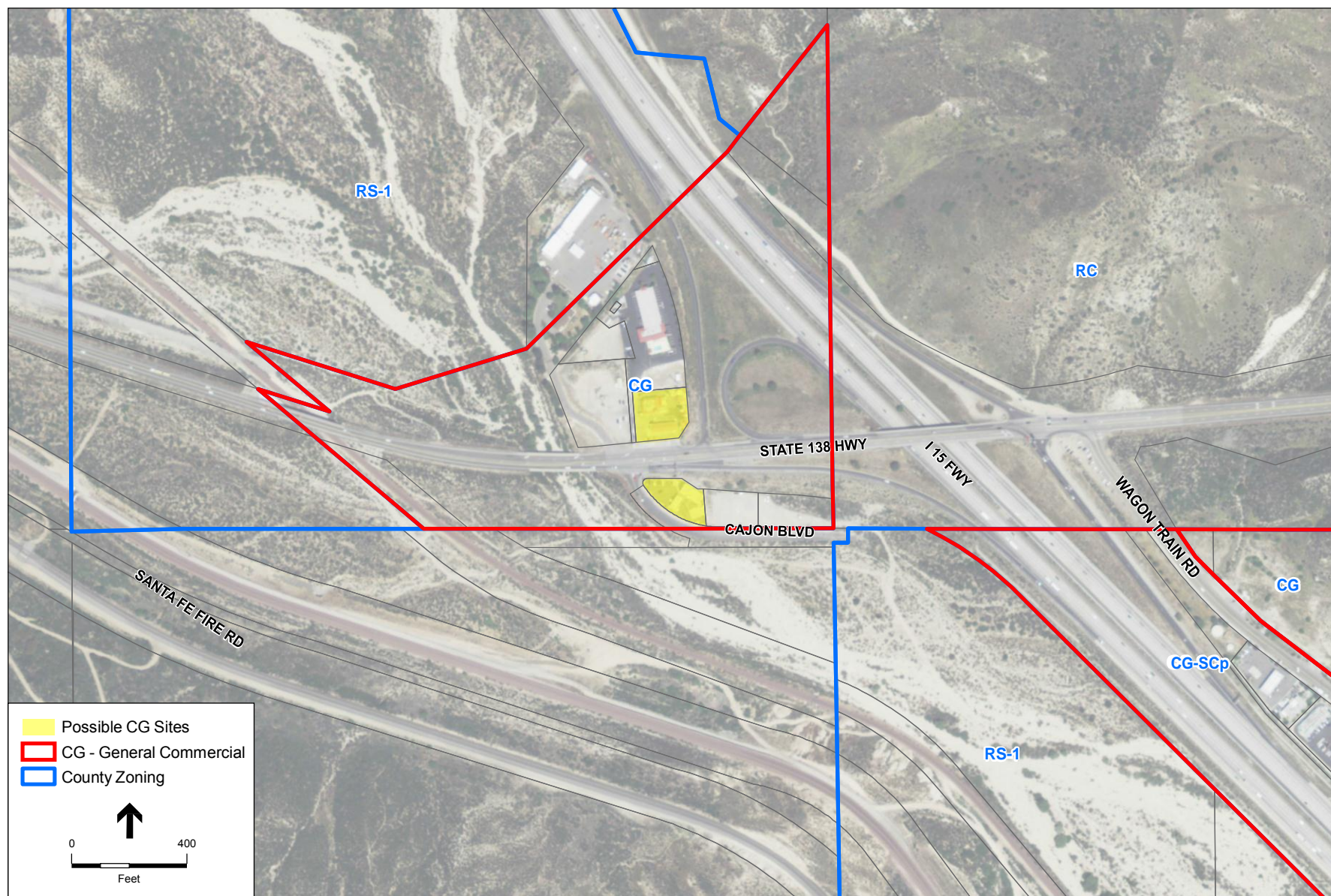
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San Bernardino County - 120850  
**Cluster 5**  
 General Commercial Zoning



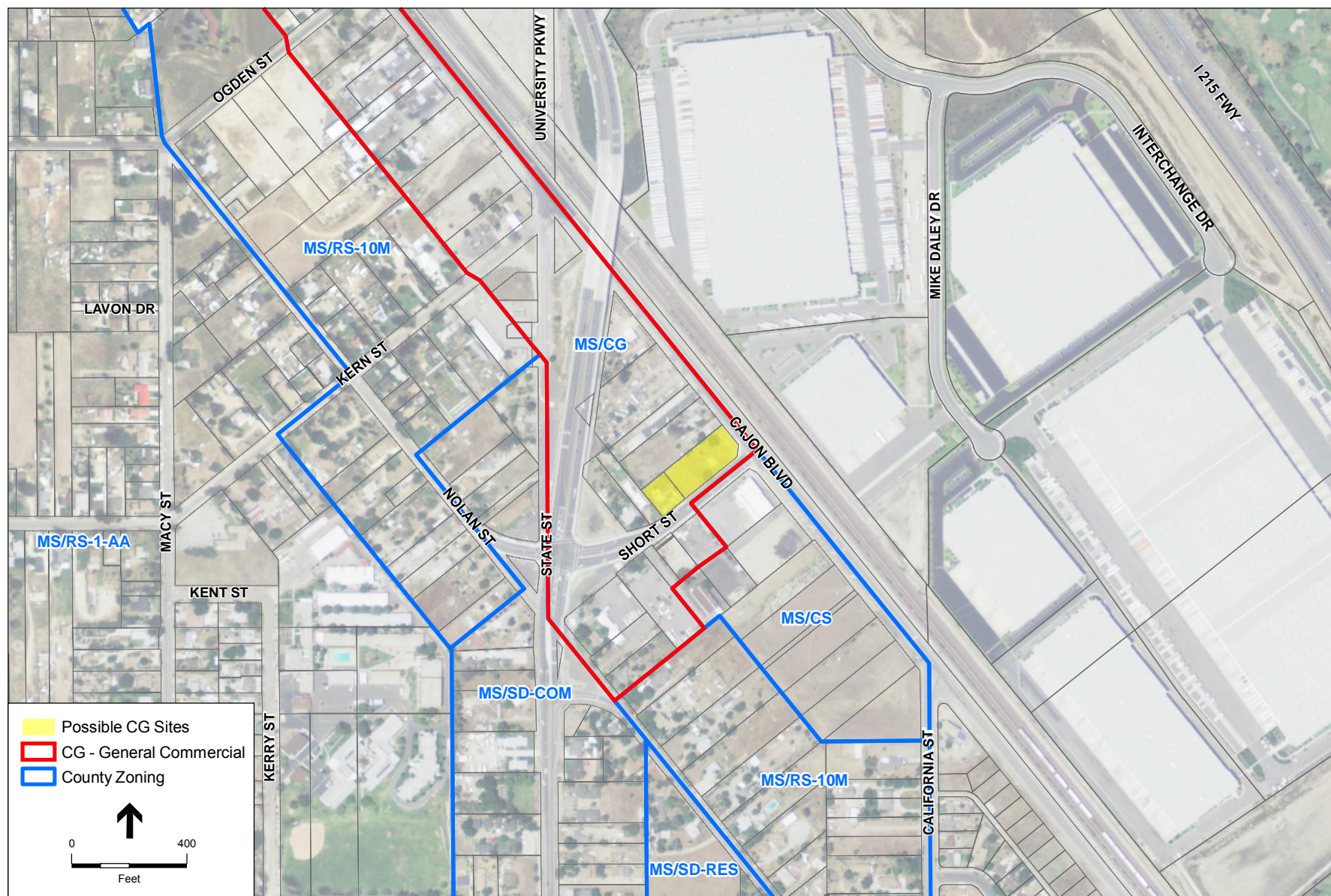
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San Bernardino County - 120850  
**Cluster 6**  
 General Commercial Zoning



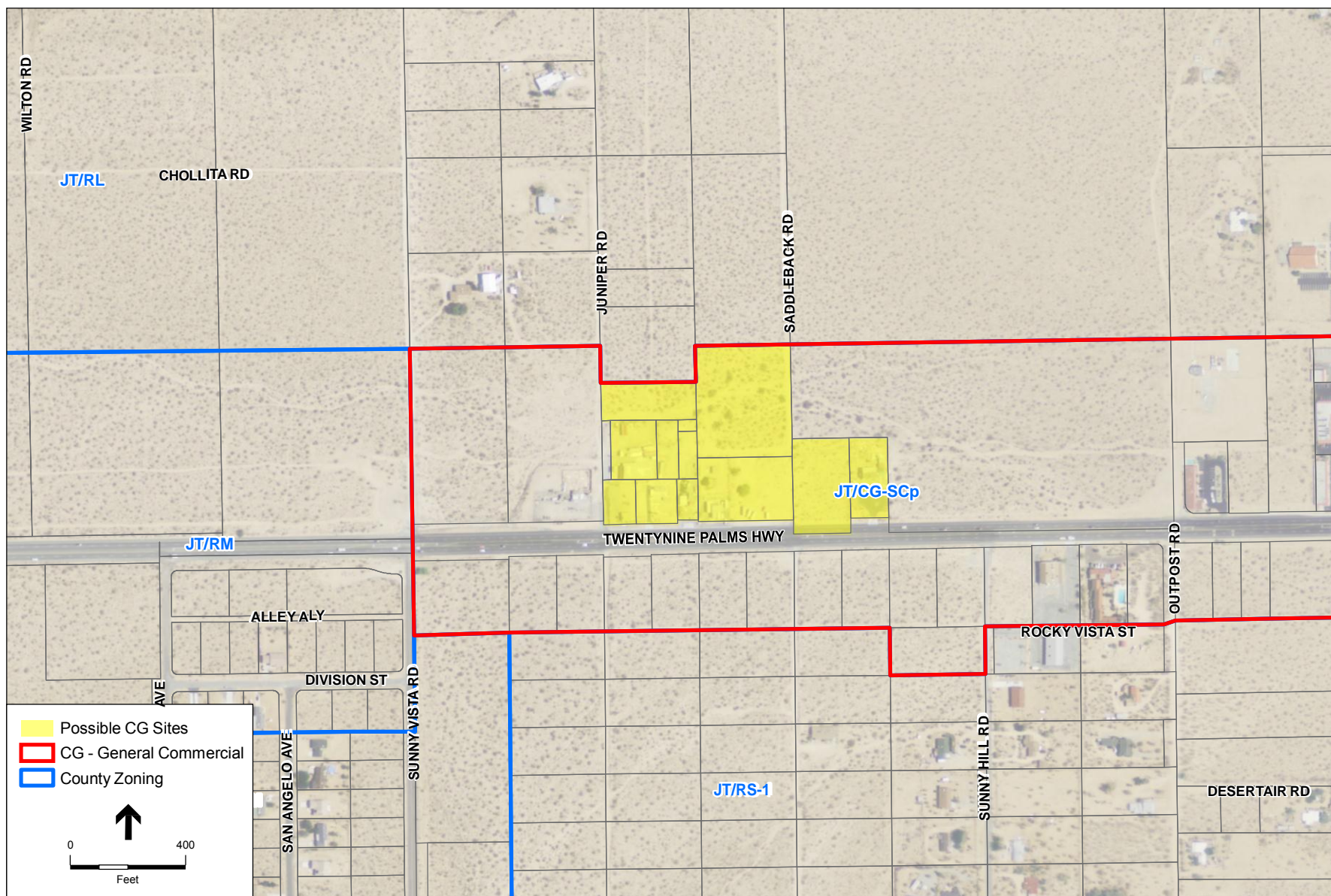
SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County - 120850  
**Cluster 7**  
 General Commercial Zoning



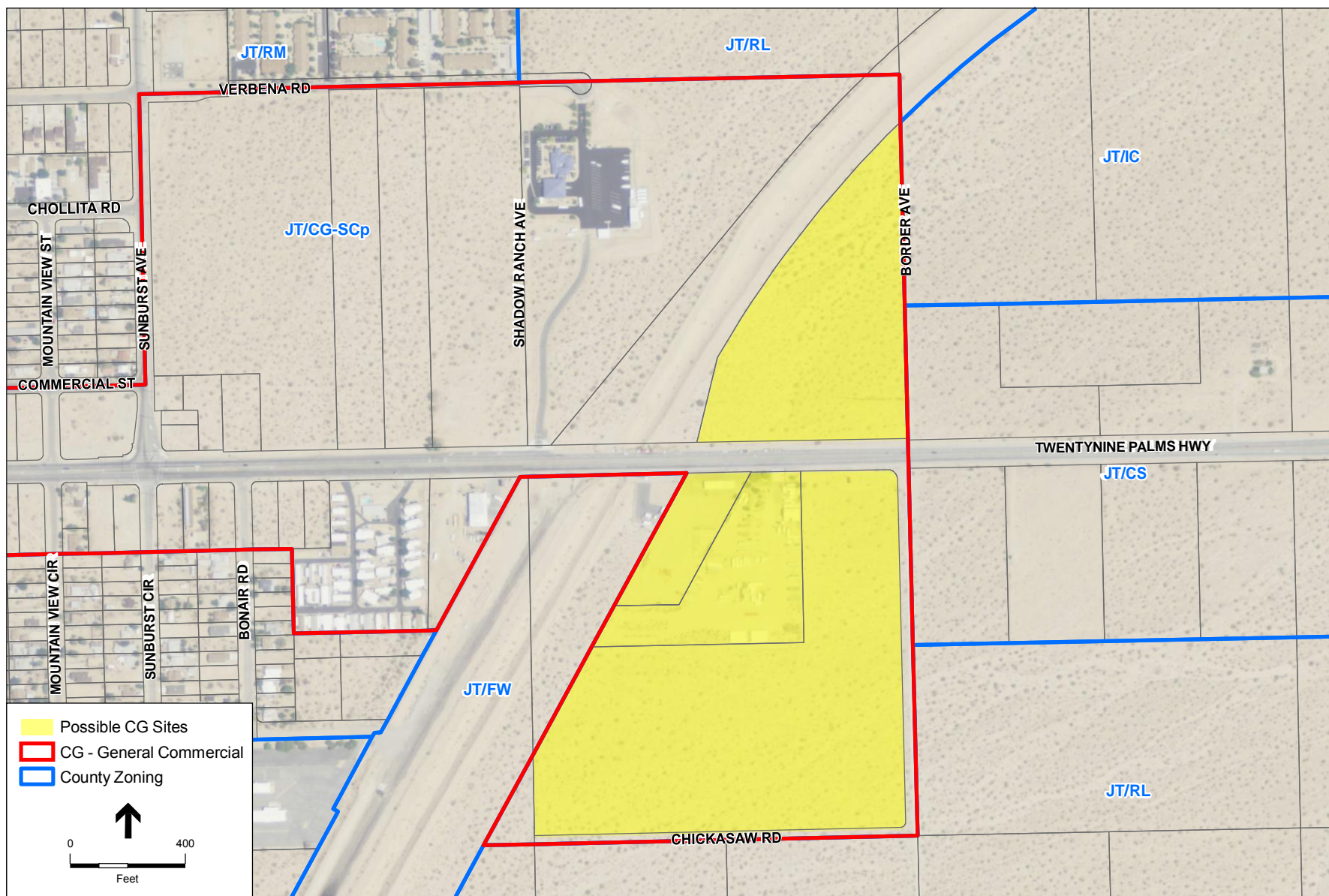
SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County - 120850  
**Cluster 8**  
 General Commercial Zoning



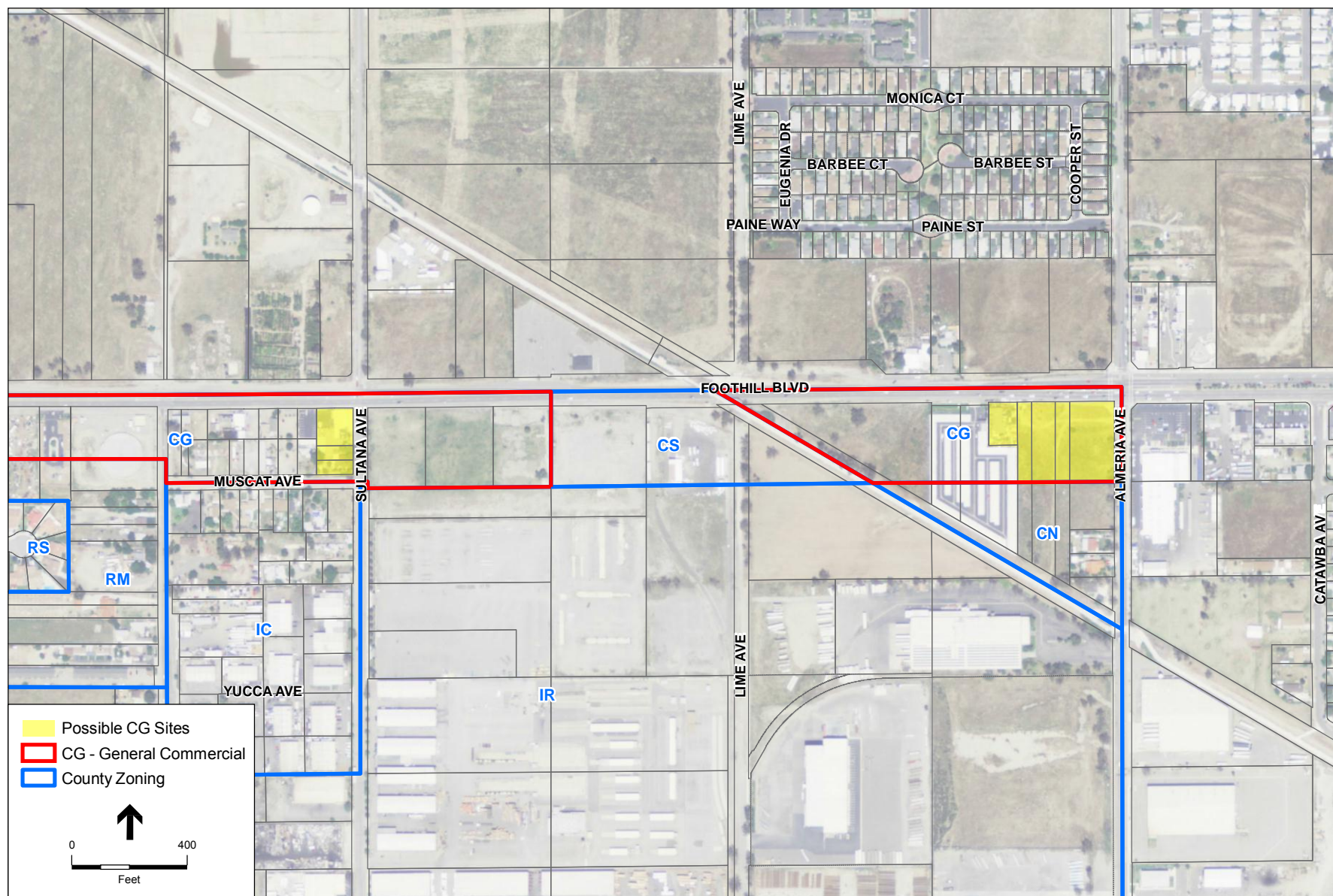
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San Bernardino County - 120850  
**Cluster 9**  
 General Commercial Zoning



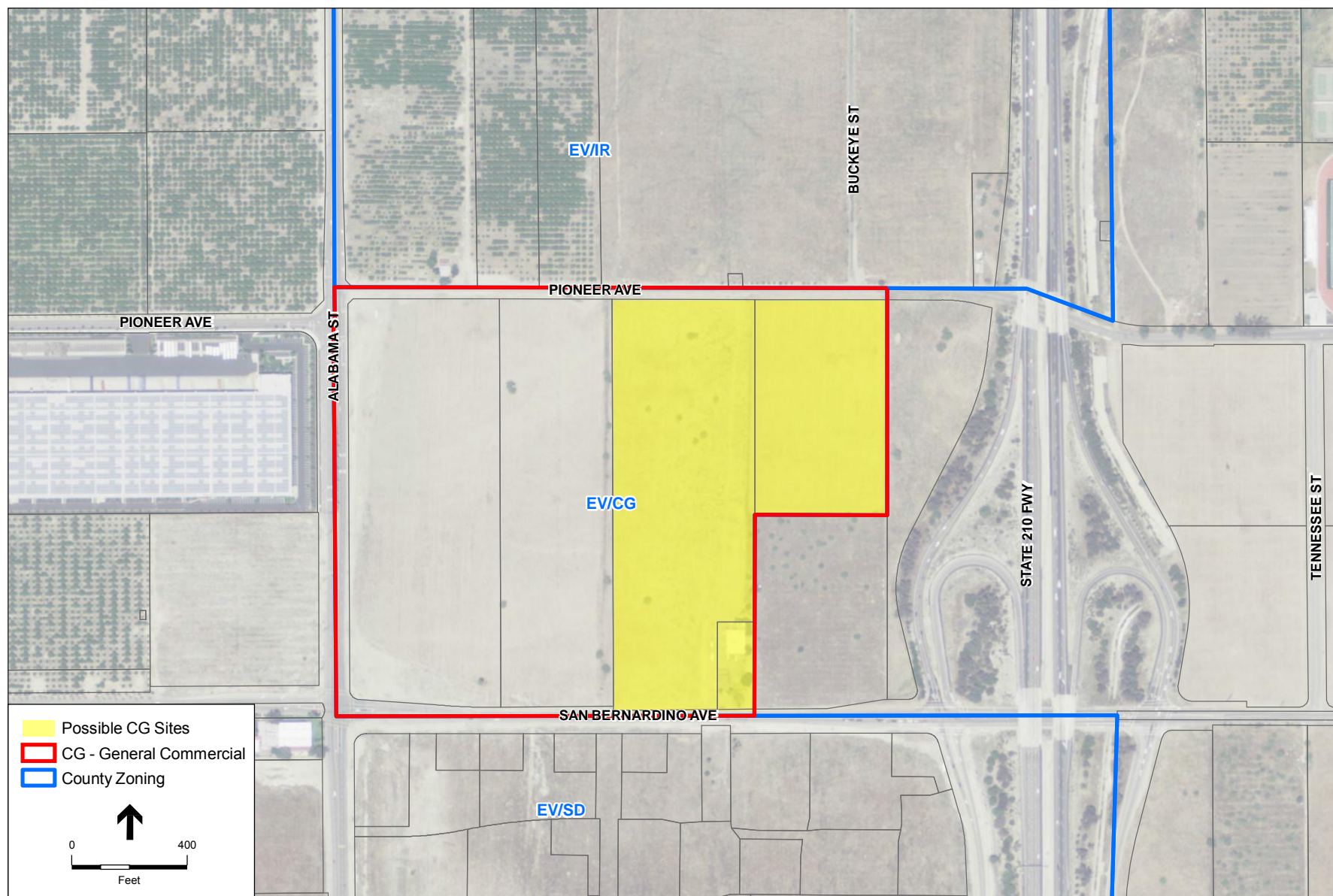
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San Bernardino County - 120850  
**Cluster 10**  
 General Commercial Zoning



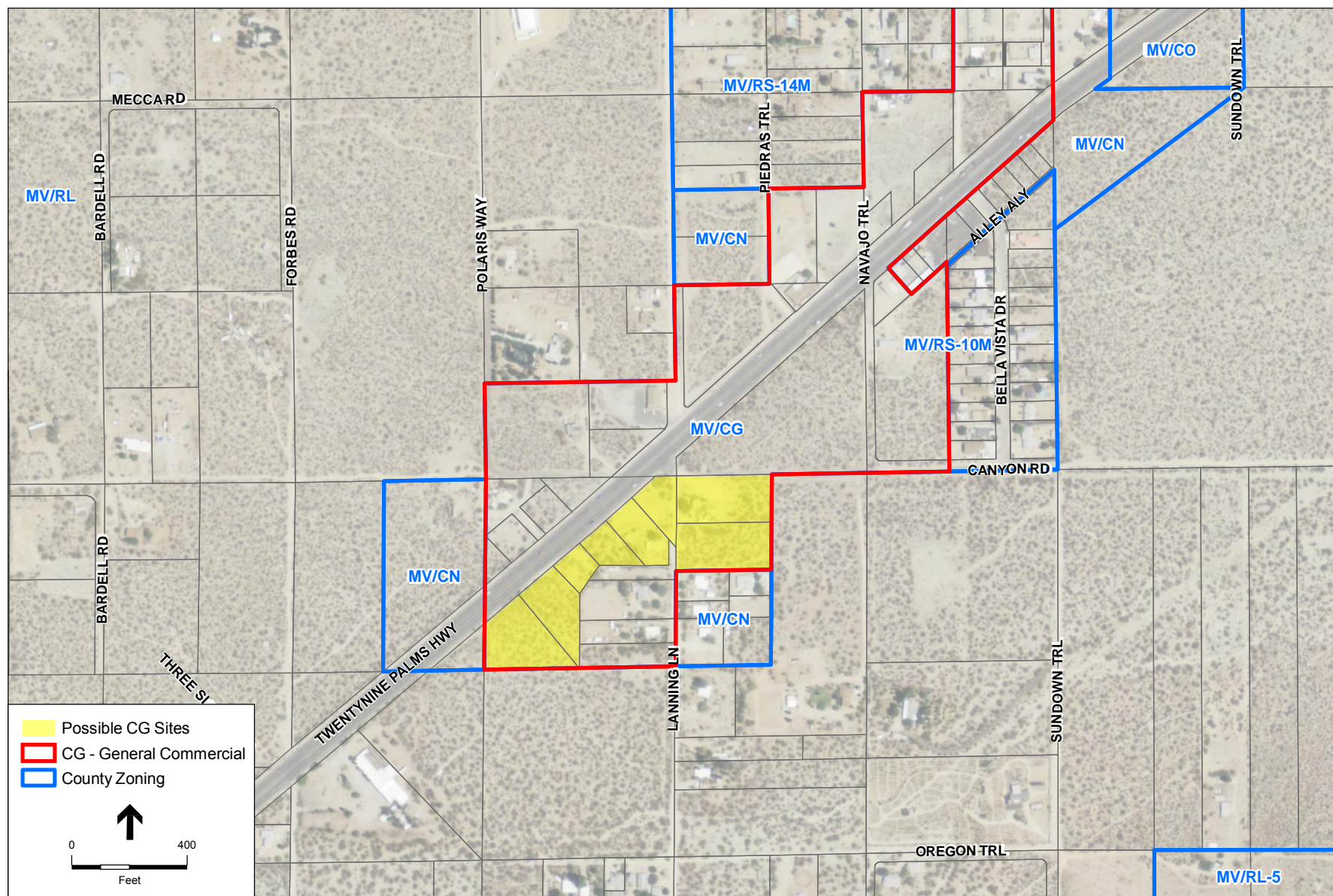
SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County - 120850  
**Cluster 11**  
 General Commercial Zoning



SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County - 120850  
**Cluster 12**  
 General Commercial Zoning



SOURCE: San Bernardino County GIS; ESA, 2012.

San Bernardino County - 120850  
**Cluster 13**  
 General Commercial Zoning

## **ATTACHMENT 5**

### **Initial Study**

## Attachment #5

## SAN BERNARDINO COUNTY INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the State CEQA Guidelines.

**PROJECT LABEL:**

<b>Applicant:</b>	Land Use Services Department
<b>Proposal:</b>	An ordinance to amend Title 8 of the County Code to revise the development standards for adult-oriented businesses, to revise the locational criteria for such businesses, to add a new land use review process to approve an adult-oriented business, to revise the definitions related to adult-oriented businesses; and to amend Title 1 of the County Code to add a new fee for this new review process.
<b>Community:</b>	Countywide
<b>JCS:</b>	L612
<b>Staff:</b>	Jim Squire

**USGS Quad:** All  
**T, R, Section:** Multiple  
**Thomas Bros.:** All  
**Land Use Zoning:** Multiple  
**Overlays:** N/A

**PROJECT CONTACT INFORMATION:**

**Lead agency:** County of San Bernardino  
 Land Use Services Department  
 385 North Arrowhead Avenue  
 San Bernardino, CA 92415-0187

**Contact person:** Jim Squire, Planner  
**Phone No:** (909) 387-4434

**PROJECT DESCRIPTION:**

This project consists of a comprehensive revision of the County's existing regulations for adult-oriented business uses and addresses both licensing and permitting provisions; performance standards for adult facilities and zoning limitations for adult-oriented businesses. The purpose and intent of the proposed amendments to the San Bernardino County Code are to:

- (1) mitigate and reduce the judicially recognized potential adverse secondary effects of adult-oriented businesses, including, but not limited to, crime, blight in neighborhoods, and the increased spread of sexually transmitted diseases;
- (2) protect quality of life and neighborhoods in the County, the County's retail and commercial trade, and local property values, and minimize the potential for nuisances related to the operation of adult-oriented businesses;
- (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize adult-oriented businesses; and
- (4) minimize the potential for nuisance related to the operation of adult-oriented businesses.

To achieve these desired goals, the proposed ordinance establishes reasonable time, place, and manner restrictions on the adult-oriented businesses in the unincorporated areas of San Bernardino County. These are coupled with zoning or locational criteria which are also legitimate and reasonable means of regulating adult facilities. In addition, performance standards are included in the application packet for an adult-oriented business. An applicant must certify that all of these standards have been met in the design and operation of the business. The County's application and review process includes safeguards to ensure that projects avoid impacts to the environment.

## **ENVIRONMENTAL/EXISTING SITE CONDITIONS:**

San Bernardino County, with a land area of 20,106 square miles, is the largest County in the continental United States. San Bernardino County contains vast undeveloped tracts of land. This vast County consists of three distinct geographic regions - the Valley, the Mountains, and the Desert. These diverse geographies not only vary by terrain, but also in visual and community character. The three areas, combined, encompass all the unincorporated lands within San Bernardino County. The planning regions include the spheres of influence of the incorporated cities.

### **Valley**

The Valley planning region could be defined as all the area within the County that is south and west of the USFS boundaries. The San Bernardino range trending southeast forms the eastern limit of the Valley region, along with the Yucaipa and Crafton Hills. The southern limits of the Valley region are marked by alluvial highlands extending south from the San Bernardino and the Jurupa Mountains.

The Valley region of the County is approximately 60 miles east of the Pacific Ocean and borders Los Angeles, Orange and Riverside counties. It is approximately 50 miles long from west to east and encompasses 500 square miles. It covers only 2.5% of the total County land, but holds approximately 75% of the County's population. Elevations within the Valley region range from about 500 feet on the Valley floor to 1,700 feet in Live Oak Canyon, and to about 5,400 feet in the Yucaipa Hills. Most of the Valley region land is urbanized and incorporated. Incorporated Cities within the Valley region include the following: Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa. Unincorporated Communities within the Valley region include the following: Aqua Mansa, Arrowhead Suburban Farms, Baldy Canyon, Barton Flats, Bloomington, Bryn Mawr, Crafton Hills, Crestmore, Del Rosa, Devore, E. Loma Linda, E. Redlands, East San Bernardino, Fallsvale, Little Mt., Los Serranos, Lytle Creek, Mentone, Mill Creek, Muscoy, N. Fontana, N. Loma Linda N. Rialto, San Antonio Heights, South Montclair, Verdemont, W. Redlands, West Valley/Foothills, and East Valley Corridor (the "Donut Hole" surrounded by Redlands).

### **Mountains**

North of the Valley region is the Mountain region, consisting of the San Bernardino and San Gabriel Mountain ranges. Elevations range from 2,000 feet along the foothills to the 11,502-foot summit of Mount San Gorgonio, the highest peak in Southern California. Of the 872 square miles within this planning region, approximately 715 square miles are public lands managed by state and federal agencies, principally the USFS. The region contains forests, meadows, and lakes.

The San Gabriel Mountains, which extend from Los Angeles County, form the western end of the Mountain region. The San Gabriel Mountains form about one-third of the Mountain region, with the San Bernardino Mountains making up the remainder. The San Bernardino Mountains feature four large lakes (i.e., Big Bear Lake, Silverwood Lake, Lake Arrowhead, and Lake Gregory), and many smaller lakes. The differences in elevation and topography are in part responsible for variations in temperature and precipitation. Of significant importance to the downstream areas of San Bernardino, Riverside and Orange counties are the headwaters of the Santa Ana River, which lie within these mountains.

Big Bear Lake is the only incorporated city within the Mountain region. Unincorporated Communities within the Mountain region include the following: Angelus Oaks, Arrowbear, Arrowhead Woods, Baldwin Lake, Barton Flats, Bear Creek, Big Bear, Blue Cut, Blue Jay, Cedar Glen, Cedarpines Park, Crestline, Erwin Lake, Fawnskin, Forest Falls, Forest Home, Fredalba, Green Valley Lake, Holcomb Valley, Lake Arrowhead, Lake Gregory, Lytle Creek, Mt. Baldy, Oak Glen, Rim Forest, Running Springs, Silverwood, Sky Forest, Sugarloaf, Twin Peaks, Valley of Enchantment, and Wrightwood.

## Desert

The Desert region, the largest of the three planning regions, includes a significant portion of the Mojave Desert and contains about 93% (18,735 square miles) of the land within San Bernardino County. The Desert region is defined as including all of the unincorporated area of San Bernardino County lying north and east of the Mountain region. The Desert region is an assemblage of mountain ranges interspersed with long, broad valleys that often contain dry lakes. Many of these mountains rise from 1,000 to 4,000 feet above the valleys.

Due to the persistent winds that blow throughout the year, large portions of the desert surface have been modified into a mosaic of pebbles and stones known as desert pavement. A major physical resource of the Desert Planning region is the Mojave River, a critical water source for many of its residents. Among the few rivers that both flow north and do not empty into an ocean, the Mojave River travels north and east away from its watershed in the San Bernardino Mountains. The major part of its over 100-mile length is marked by a dry riverbed that only on occasion reveals the water within it. Except in exceedingly wet years, the Mojave River ends its flow at Soda Dry Lake near Baker.

Much of the area within the Desert region consists of federal lands, including lands administered by the Bureau of Land Management, as well as military bases and national parks. Listed below are the incorporated cities and towns in the Desert region: Adelanto, Apple Valley, Barstow, Hesperia, Victorville, Needles, Twentynine Palms, and Yucca Valley. Unincorporated Communities within the Desert region include: Baker, Baldy Mesa, Black Meadow, Boron, Cadiz Daggett, Earp, El Mirage, Essex, Flamingo Heights, Harvard, Havasu, Helendale, Hinkley, Johnson Valley, Joshua Tree, Kelso, Kramer, Landers, Lenwood, Lucerne Valley, Ludlow, Morongo Valley, Newberry Springs, Oak Hills, Oro Grande, Parker Dam, Phelan, Pinon Hills, Pioneertown, Red Mountain, Rice, Ridge Crest, Rimrock, Searles Valley, Spring Valley Lake, Summit Valley, Sunfair Heights, Trona, Vidal, Wonder Valley, Yermo, and Yucca Mesa.

More detailed descriptions of the environmental/existing site conditions for each of the environmental factors discussed in this Initial Study are included in the Environmental Impact Report that was prepared for the General Plan Update Program that was adopted on March 13, 2007. These descriptions contained in the EIR are incorporated into this Initial Study by reference.

AREA	EXISTING LAND USE	LAND USE/OVERLAY DISTRICT
Site	N/A	N/A
North	Multiple	Multiple/ Multiple
South	Multiple	Multiple/ Multiple
East	Multiple	Multiple/ Multiple
West	Multiple	Multiple/ Multiple

Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

NONE

### **EVALUATION FORMAT**

This initial study is prepared in compliance with the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the State CEQA Guidelines (California Code of Regulations Section 15000, et seq.). Specifically, the preparation of an Initial Study is guided by Section 15063 of the State CEQA Guidelines. This format of the study is presented as follows. The project is evaluated based upon its effect on seventeen (17) major categories of environmental factors. Each factor is reviewed by responding to a series of questions regarding the impact of the project on each element of the overall factor. The Initial Study Checklist provides a formatted analysis that provides a determination of the effect of the project on the factor and its elements. The effect of the project is categorized into one of the following four categories of possible determinations:

Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less than Significant	No Impact
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Substantiation is then provided to justify each determination. One of the four following conclusions is then provided as a summary of the analysis for each of the major environmental factors.

1. **No Impact:** No impacts are identified or anticipated and no mitigation measures are required.
2. **Less than Significant:** No significant adverse impacts are identified or anticipated and no mitigation measures are required.
3. **Less than Significant Impact with Mitigation Incorporated:** Possible significant adverse impacts have been identified or anticipated and the following mitigation measures are required as a condition of project approval to reduce these impacts to a level below significant. The required mitigation measures are: (List of mitigation measures)
4. **Potentially Significant Impact:** Significant adverse impacts have been identified or anticipated. An Environmental Impact Report (EIR) is required to evaluate these impacts, which are (List of the impacts requiring analysis within the EIR).

At the end of the analysis the required mitigation measures are restated and categorized as being either self- monitoring or as requiring a Mitigation Monitoring and Reporting Program.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Aesthetics               | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources     | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology / Soils                    |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials      | <input type="checkbox"/> Hydrology / Water Quality          |
| <input type="checkbox"/> Land Use/ Planning       | <input type="checkbox"/> Mineral Resources                  | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population / Housing     | <input type="checkbox"/> Public Services                    | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation / Traffic | <input type="checkbox"/> Utilities / Service Systems        | <input type="checkbox"/> Mandatory Findings of Significance |

**DETERMINATION:** (To be completed by the Lead Agency)

On the basis of this initial evaluation, the following finding is made:

<input checked="" type="checkbox"/>	The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION shall be prepared.
<input type="checkbox"/>	Although the proposed project could have a significant effect on the environment, there shall not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION shall be prepared.
<input type="checkbox"/>	The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: prepared by James Squire, Planner

Date

Signature: Terri Rahhal, Planning Director

Date

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>I. AESTHETICS - Would the project</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**SUBSTANTIATION** (Check ☒ if project is located within the view-shed of any Scenic Route listed in the General Plan):

- I. a) The proposed ordinance related to adult-oriented businesses would have a less than significant impact on scenic vistas because any new signs or buildings related to new adult-oriented uses would be located in the CG (General Commercial) and IC (Community Industrial) zones and would be subject to current zoning development and sign standards that would reduce potential impacts on scenic vistas.
- I. b) Currently, San Bernardino County has one designated State Scenic Highway, which is Route 38 between the South Fork Campground to 2.9 miles south of SR 18 at State Lane. The proposed ordinance related to adult-oriented businesses would not substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway because any new project would be subject to regulations of the County's sign and building design guidelines. Compliance with Performance Standards detailed in Chapter 83.01 (General Performance Standards) of the Development Code and Operating Standards detailed in Chapter 84.02 (Adult-oriented Businesses) of the Development Code will be confirmed in the application process, in accordance with the Adult-oriented Business Regulatory Permit application procedures. In addition, the Performance Standards included in the application packet, which an applicant must certify that his/her project meets or exceeds as part of the project review process, state that the exterior design of adult-oriented business shall be compliant with the standards in County Code Chapters 83.02 (General Development and Use Standards), 83.06 (Fences, Hedges and Walls), and 83.10 (Landscaping Standards). The County's review process includes safeguards to ensure that projects avoid aesthetic impacts to the environment.
- I. c) As described in responses a) and b), the proposed ordinance would require adult-oriented business uses to be developed and operated consistent with the regulations of the CG and IC zoning standards, and other requirements of the County Code. In addition, the ordinance requires physical separation between proposed adult-oriented businesses and sensitive uses, as well as separation between different adult-oriented businesses. The intent of the proposed ordinance includes prevention of blight and protection of the quality of neighborhoods. As a result, implementation of the proposed ordinance would not visually degrade the character or quality of the County, and impacts are less than significant.
- I. d) Implementation of the proposed ordinance would not create a new source of light or glare that would adversely affect day or nighttime views because any new signs or buildings within the CG and IC zones

would be subject to the County's Code standards. Furthermore, compliance with the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) of the Development Code and Operating Standards detailed in Chapter 84.02 (Adult-oriented Businesses) of the Development Code, will be confirmed in the application process.. This will provide for compatible lighting and reduce glare from any new development. As a result, the proposed project would have a less than significant impact related to light and glare.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant	No Impact
<b>II. AGRICULTURE AND FORESTRY RESOURCES</b> - In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined in Public Resources Code section 4526) or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**SUBSTANTIATION** (Check ☒ if project is located in the Important Farmlands Overlay):

- II. a) The proposed ordinance related to adult-oriented businesses would have no impact on Prime Farmland, Unique Farmland, and Farmland of Statewide Importance because adult-oriented uses would be required to locate in either the CG (General Commercial) or IC (Community Industrial) zones, which are unlikely to contain important farmland. In addition, the Performance Standards included in the application packet state that an adult-oriented business shall not be located within an area designated as Prime, Unique, or Important Farmland, including an Agricultural Preserve Overlay. As a result, implementation of the proposed project would not result in impacts to Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.
- II. b) As described in response a), the proposed adult-oriented business ordinance would not impact agricultural zoning or areas under a Williamson Act contract because adult-oriented uses would be required to locate in either the CG (General Commercial) or IC (Community Industrial) zones, and the Performance Standards included in the application packet do not allow adult-oriented business to locate within an area zoned for agricultural uses. As a result, impacts to agricultural zoning or Williamson Act contracts would not occur.
- II. c) As described in responses a) and b), adult-oriented uses would be required to locate in either the CG (General Commercial) or IC (Community Industrial) zones. Thus, implementation of the proposed ordinance would not impact areas zoned for forest land or timberland.
- II. d) As described in response c), adult-oriented uses would be required to locate in either the CG (General Commercial) or IC (Community Industrial) zones, which are urban areas in the County that do not contain forest resources. Implementation of the proposed ordinance and existing County regulations related to development areas would provide that the project does not result in impacts related to conversion of forest resources.
- II. e) The proposed ordinance would not involve changes that could result in the conversion of farmland or forest because adult-oriented businesses would only be located within CG or IC zones that are urban areas or areas planned for urban development.

Issues	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant	No Impact
<b>III. AIR QUALITY</b> - Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing				

emissions, which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**SUBSTANTIATION** (Discuss conformity with the South Coast Air Quality Management Plan, if applicable):

- III. a) San Bernardino County is largely within the Mojave Desert Air Basin, with the southwestern portion of the County located within the South Coast Air Basin. Each of the air basins has adopted air quality plans to regulate emission of pollutants. The proposed ordinance related to adult-oriented businesses would have a less than significant impact on the applicable air quality plans because any new adult-oriented businesses would be located within the CG or IC zones, which would be consistent with the designated uses for these areas; and therefore, are consistent with applicable air quality plans. As a result, the proposed ordinance would not result in conflicts with or obstructions to the adopted air quality plans.
- III. b) As described in response a), the proposed ordinance would direct uses that are consistent with the adopted air quality plans for San Bernardino County. In addition, compliance with the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) of the Development Code, will be confirmed in the application process. Therefore, any potential impacts on air quality will be avoided or minimized to insignificant levels. As a result, implementation of the proposed ordinance would not violate any air quality standards or contribute substantially to an existing or projected air quality violation.
- III. c) The Mojave Desert Air Basin is currently in federal nonattainment for ozone and PM<sub>10</sub> and state nonattainment for ozone, PM<sub>10</sub>, and PM<sub>2.5</sub>. The South Coast Air Basin is in federal nonattainment for ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> and state nonattainment for ozone, NO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. Implementation of the proposed ordinance would not result in a cumulatively considerable net increase in any criteria pollutant because any adult-oriented uses would be constructed and operated in compliance to the standards in Section 83.01.040 (Air Quality) of the County's Code and other standards of the CG and IC zones.
- III. d) The proposed adult-oriented business ordinance would not expose sensitive receptors to substantial pollutant concentrations because the ordinance would regulate the location of adult-oriented uses to areas within the CG (General Commercial) and IC (Community Industrial) zones. In addition, the proposed ordinance would require a 500-foot separation from sensitive uses (including residential zones, other than the RL (Rural Living) zone that requires a 250-foot setback from residential uses). Therefore, adult-business locations would be separated from sensitive receptors, such that, air quality impacts to sensitive receptors would not occur.
- III. e) The proposed ordinance would not create objectionable odors affecting a substantial number of people because any adult-oriented businesses would be required to comply with zoning setback requirements and building design setbacks. Sites in commercial and industrial zones are generally away from substantial numbers of people and the proposed ordinance generally requires 500 feet separation from sensitive uses (including residential zones, other than the RL (Rural Living) zone that requires a 250-foot setback from residential uses). These setbacks would provide a buffer between uses and implementation of the ordinance would not result in odor impacts.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>IV. BIOLOGICAL RESOURCES - Would the project:</b>				
a) Have substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>SUBSTANTIATION</b>	(Check if project is located in the Biological Resources Overlay or contains habitat for any species listed in the California Natural Diversity Database <input checked="" type="checkbox"/> ):			

IV. a) The proposed adult-oriented business ordinance would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS) because the CG (General Commercial) and IC (Community Industrial) zones in the County generally do not contain areas of sensitive habitat or where sensitive species may be found. In addition, compliance with the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapter 82.11 (Biotic Resources Overlay) of the Development Code, will be confirmed in the application process. Therefore, any potential impacts on biological resources will be avoided. Additionally, an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 88.01 (Plant Protection and Management) and

Chapter 88.02 (Soil and Water Conservation). As a result, the proposed ordinance would not result in impacts to candidate, sensitive, or special-status species.

- IV. b) As described in response a), the proposed ordinance requires adult-oriented business to be located in the GC or IC zones that generally do not contain biotic resources, including riparian habitat or other sensitive natural communities. In addition, the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapter 82.11 (Biotic Resources Overlay) of the Development Code, provide protection to habitats regulated by CDFW or USFWS. As a result, the proposed ordinance would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by CDFW or USFWS.
- IV. c) As described in responses a) and b), the proposed ordinance requires adult-oriented business to be located in the GC or IC zones that generally do not contain biotic resources, including federally protected wetlands. Additionally, the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapter 82.11 (Biotic Resources Overlay) of the Development Code, provide protection to habitats regulated by USFWS. Furthermore, the proposed ordinance would not result in removal, filling, hydrological interruption, or other effects to wetlands. As a result, implementation of the proposed ordinance would not have a substantial adverse effect on federally protected wetlands.
- IV. d) As described in responses a), b), and c) the proposed ordinance requires adult-oriented business to be located in the GC or IC zones that generally do not contain biotic resources, including migratory corridors and native wildlife nursery sites. In addition, the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapter 82.11 (Biotic Resources Overlay) of the Development Code, are designed to protect biological resources. Compliance with these Performance Standards and other regulations of the CG and IC zones would protect the movement of any native resident or migratory fish or wildlife species, and impacts would not occur. The County's review process includes safeguards to ensure that projects avoid impacts to biological resources.
- IV. e) As described in response a), the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapters 82.11 (Biotic Resources Overlay), 88.01 (Plant Protection and Management) and 88.02 (Soil and Water Conservation) of the Development Code, require that an adult-oriented business shall be constructed and operated in such a manner that these businesses will not conflict with any local policies or ordinances protecting biological resources.
- IV. f) As described in the responses above, the proposed ordinance requires adult-oriented business to be located in the GC or IC zones that generally do not contain biotic resources. The Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapters 82.11 (Biotic Resources Overlay), 88.01 (Plant Protection and Management) and 88.02 (Soil and Water Conservation) of the Development Code are designed to protect biological resources, and any adult-oriented business uses would be required to comply with other local, regional, state, and federal regulations, including habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. As a result, conflicts with biological protection plans would not result from implementation of the proposed ordinance.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>V. CULTURAL RESOURCES - Would the project</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>SUBSTANTIATION</b>	(Check if the project is located in the Cultural <input checked="" type="checkbox"/> or Paleontologic <input checked="" type="checkbox"/> Resources overlays or cite results of cultural resource review):			

- V. a-b) The proposed ordinance provides zoning regulations related to the location of adult-oriented businesses. Also, a Performance Standard included in the application packet states that a proposed adult-oriented business located within a Cultural Resources Preservation Overlay shall require Development Standards as provided in Section 82.12.040 (Development Standards) and Section 82.12.050 (Native American Monitor). These development standards are provided to protect historical or archaeological resources. As a result, implementation of the proposed ordinance would not result in impacts related to a substantial adverse change in the significance of a historical or archaeological resource.
- V. c) As described in response a), the proposed ordinance provides zoning regulations related to the location of adult-oriented businesses. In addition, a Performance Standard included in the application packet states that a proposed adult-oriented business located within a Paleontological Resources Preservation Overlay shall require implementation of regulations provided in Section 82.20.030 (Criteria for Site Evaluation for Paleontologic Resources) and Section 82.20.040 (Paleontologist Qualifications). These development standards are provided to protect paleontological resources. As a result, implementation of the proposed ordinance would not result in destruction of a unique paleontological resource or site or unique geologic feature.
- V. d) The proposed ordinance provides zoning regulations related to the location of adult-oriented businesses, and requires adult-oriented business to be located in the GC or IC zones. Although these areas are not anticipated to include human remains, adult-oriented business uses would be required to comply with local, regional, state, and federal regulations related to human remains, should any be found during construction of an adult-oriented use. As a result, impacts would be less than significant.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>VI. GEOLOGY AND SOILS - Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map Issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 181-B of the California Building Code (2001) creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>SUBSTANTIATION</b> (Check <input checked="" type="checkbox"/> if project is located in the Geologic Hazards Overlay):				

VI. a) The proposed ordinance provides zoning regulations related to the location of adult-oriented businesses, and a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Geological Hazard Overlay. As such, a proposed adult-oriented business located within a Geological Hazards Overlay shall require Professional Reports and Development Standards as provided in Section 82.15.030 (Professional Reports) and Section 82.15.040 (Development Standards). In addition, any construction related to new adult-oriented uses would be required to comply with the Uniform Building Code and other code requirements related to seismic hazards. Therefore, the proposed ordinance would not result in impacts related to the exposure of people or structures to potential substantial adverse effects of fault ruptures, strong seismic ground shaking, liquefaction, landslides or other seismic related effects.

VI. b) Refer to the response above, the proposed ordinance would provide regulations related to adult-oriented businesses. These regulations are in addition to existing regional and local regulations related to soil erosion and loss of soils. The proposed ordinance would not result in impacts related to construction activities of potential new commercial uses, and would not result in substantial soil erosion or the loss of topsoil.

VI. c-d) Refer to the response above, the proposed ordinance would provide regulations related to adult-oriented businesses. These regulations are in addition to existing regional and local building regulations. Furthermore, a Performance Standard is included in the application packet related to geologic hazards. Therefore, the County's review process includes safeguards to ensure that projects avoid impacts related to unstable soils, expansive soils or unstable geologic units.

VI. e) The proposed ordinance does not involve or regulate the use of septic tanks. Any adult uses would be required to comply with the existing wastewater requirements of commercial uses within the CG and IC zones. As a result, implementation of the proposed ordinance would not result in impacts related to septic tanks or other wastewater disposal systems.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>VII GREENHOUSE GAS EMISSIONS - Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### **SUBSTANTIATION:**

VII a-b) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, and the application packet includes a Performance Standard that states an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 84.30 (Greenhouse Gas Emissions Reduction Plan Implementation). The proposed ordinance would not generate direct or indirect greenhouse gas emissions, and it would not conflict with a plan, policy, or regulation related to greenhouse gas emissions; however, adult-oriented businesses approved pursuant to the provisions of the proposed ordinance would generate emissions in a manner consistent with the provisions of Chapter 84.30 (Greenhouse Gas Emissions Reduction Plan Implementation). Therefore, implementation of the proposed ordinance would result in less than significant impacts related to greenhouse gasses.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>VIII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:</b>				
a) Create a significant hazard to the public or the Environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

### ***SUBSTANTIATION:***

- VIII a-b) The proposed ordinance would regulate the location and operation of adult-oriented businesses. Adult-oriented uses would be limited to areas zoned as CG or IC, and do not generally involve the use, routine transport, or disposal of hazardous materials beyond the use of cleaning and painting type products that are used and stored in small quantities that would not result in a hazardous condition. In addition, a Performance Standard is included in the application packet states that waste materials shall be stored, handled, and disposed of in compliance with Section 83.01.100 (Waste Disposal), and Chapter 84.24 (Solid Waste/Recyclable Materials Storage). Therefore, the proposed ordinance would not result in significant impacts related to hazards or accident conditions related to the use, transport, or storage of hazardous materials.
- VIII. c) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC, and to be located a minimum of 500 feet from school facilities. As described in response a-b), adult-oriented businesses use a limited amount of hazardous materials that include painting and cleaning products that would not result in a hazard. As a result, the proposed ordinance would not result in hazardous impacts to schools that may exist 500 feet away from an adult use.

- VIII. d) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, a Performance Standard is included in the application packet that states that proposed adult-oriented business shall not be sited on a list of hazardous materials sites compiled pursuant to California Government Code Section 65962.5. As a result, the County's review process includes safeguards to ensure that projects avoid impacts from implementation of the proposed ordinance.
- VIII. e-f) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, proposed adult-oriented uses would be subject to guidelines of applicable airport land use plans. Furthermore, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Airport Safety Overlay. As such, a proposed adult-oriented business located within an Airport Safety Overlay shall require Review Procedures and Development Standards as provided in Section 82.09.050 (Review Procedures) and Section 82.09.060 (Development Standards). Therefore, the proposed ordinance would not result in significant impacts related to an airport land use plan, a public airport, or a private airstrip.
- VIII. g) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, proposed adult-oriented uses would be subject to the County's development requirements, which includes the Uniform Building Code, and reviews from the County's Fire Department. Furthermore, a Performance Standard is included in the application packet that states that an adult-oriented business shall provide site and emergency access pursuant to the requirements in the Uniform Fire Code, included in the County's Code Sections 23.0101 (Findings and Adoption of the Uniform Fire Code) through 23.0111 (Validity Clause). Therefore, the proposed ordinance would not result in significant impacts related to impairment or interference with an adopted emergency response plan or emergency evacuation plan.
- VIII. h) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC, which are generally not wildland fire locations. In addition, proposed adult-oriented uses would be subject to the County's development requirements, which includes the Uniform Building Code, and reviews from the County's Fire Department. Furthermore, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Fire Safety Overlay. As such, a proposed adult-oriented business located within a Fire Safety Overlay shall require Development Standards as provided in Sections 82.13.050 (General Development Standards) through 82.13.090 (Alternate Hazard Protection Measures). Therefore, the proposed ordinance would not result in impacts related to wildland fires.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>IX. HYDROLOGY AND WATER QUALITY - Would the project:</b>				

- a) Violate any water quality standards or waste discharge requirements?

☐☐☐☒

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level, which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Otherwise substantially degrade water quality?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structure that would impede or redirect flood flows?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**SUBSTANTIATION:** (Check ☒ if project is located in the Flood Hazard Overlay District):

- IX. a) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, which are limited to the CG and IC zones and a Performance Standard is included in the application packet that states an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 83.15 (Conditional Compliance for Water Quality Management Plans), and the Pollutant Discharge Elimination System Regulations as provided in Sections 35.0101 (Authority) through 35.0132 (Notice to Remediate). The County's review process includes safeguards to ensure that projects will not result in violation of any water quality standards or waste discharge requirements.
- IX. b) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, which are limited to the CG and IC zones. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by the other provisions in the County Code, including

Chapter 83.09 (Infrastructure Improvement Standards), that requires CG and IC uses be served by water purveyors and not well water. In addition, adult-oriented uses would continue to be regulated by local, state, and federal regulations related to groundwater supplies and recharge. Also, a Performance Standard is included in the application packet that states that an adult-oriented business shall be operated in compliance to the standards in Sections 33.0601 (Authority) through 33.06557 (Violations, Remedies, and Penalties) related to groundwater management and public water supply systems. Therefore, implementation of the proposed ordinance would not substantially deplete groundwater supplies or interfere with groundwater recharge, and groundwater related impacts would not occur.

- IX. c) As described in response b), the proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, which are limited to the CG and IC zones. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by the other provisions in the County Code related to erosion and drainage, including the drainage improvement requirements provided in Chapter 83.09 (Infrastructure Improvement Standards). In addition, other local and regional requirements related to Storm Water Pollution Prevention Plans (SWPPP) and Water Quality Management Plans (WQMP) would continue to apply, as appropriate, to adult-oriented business uses. Furthermore, a Performance Standard is included in the application packet that states that an adult-oriented business shall be constructed in compliance to the standards in Section 82.13.080 (Erosion and Sediment Control Plans/Permits). Therefore, the proposed ordinance would not result in impacts related to alteration of an existing drainage pattern through the alteration of the course of a stream or river, or by other means, in a manner that would result in substantial erosion or siltation on- or off-site.
- IX. d) Refer to responses b) and c) above. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by provisions in the County Code related to drainage, including the drainage improvement requirements provided in Chapter 83.09 (Infrastructure Improvement Standards). In addition, other local and regional requirements related to SWPPPs and WQMPs would continue to apply, as appropriate, to adult-oriented business uses. In addition, a Performance Standard is included in the application packet that states that the proposed use shall have adequate infrastructure pursuant to the standards in Chapter 83.09 (Infrastructure Improvement Standards). As a result, implementation of the proposed ordinance would not substantially alter existing drainage patterns through alteration of a course of a stream or river, or by other means, substantially increase the rate or amount of surface runoff in a manner that would result in flooding. The County's review process includes safeguards to ensure that projects avoid impacts to water quantity and quality.
- IX. e-f) As described in responses a) through d) above, implementation of the proposed adult-oriented business ordinance would not change requirements related to infrastructure, retention of stormwater, or water quality. Existing local, Regional Water Quality Control Board (RWQCB), and federal regulations would continue to apply to adult-oriented businesses. In addition, a Performance Standard is included in the application packet that states an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 83.15 (Conditional Compliance for Water Quality Management Plans), and the Pollutant Discharge Elimination System Regulations as provided in Sections 35.0101 (Authority) through 35.0132 (Notice to Remediate). As a result, the County's review process includes safeguards to ensure that projects will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or otherwise substantially degrade water quality.
- IX. g) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones. The ordinance does not involve development of housing and would not place housing within a 100-year flood hazard area. No impacts would occur.
- IX. h) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by the other provisions in the County Code, including those related to

development within a flood zone. In addition, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Floodplain Safety Overlay. As such, a proposed adult-oriented business located within a Floodplain Safety Overlay zone or otherwise within a flood zone shall comply with regulations in Sections 82.14.040 (Floodplain Safety Review Areas) through 82.14.070 (Boundary Changes), and Chapter 85.07 (Flood Hazard Development), including Section 85.07.030, (Floodplain Development Standards Review Procedures). Therefore, the proposed ordinance would not result in impacts related to development of structures within a 100-year flood hazard area that would impede or redirect flood flows.

- IX. i-j) As described in responses a) through d) above, the proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones, and proposed adult-oriented business would continue to require compliance with County Code, regional, and state requirements related to flooding. In addition, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Floodplain Safety Overlay. As such, a proposed adult-oriented business located within a Floodplain Safety Overlay or otherwise within a flood zone shall comply with regulations in Sections 82.14.040 (Floodplain Safety Review Areas) through 82.14.070 (Boundary Changes), and Chapter 85.07 (Flood Hazard Development), including section 85.07.030 (Floodplain Development Standards Review Procedures). Thus, implementation of the proposed ordinance would not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or inundation by seiche or mudflow. San Bernardino County is located a substantial distance from the Pacific Ocean and is not a risk of tsunamis.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>X. LAND USE AND PLANNING - Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## **SUBSTANTIATION**

- X. a) The proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones. In addition, the ordinance provides require separation distances from sensitive or other adult-oriented uses. The intent of the proposed ordinance is to provide appropriate locations for adult-oriented uses that would not conflict with the existing community. As a result, implementation of the proposed ordinance would not physically divide an established community.
- X. b) The intent of the proposed ordinance is to provide land use and operating regulations that would mitigate potential adverse secondary effects of adult-oriented businesses and protect the quality of life

and neighborhoods in the County. The proposed ordinance provides location and design standards, and the application packet includes Performance Standards all designed to avoid or minimize potential nuisances and impacts to the environment. Adult-oriented business would continue to be regulated by the County's Code and other regional, state and federal regulations, as appropriate. The proposed ordinance would be adopted for the purpose of avoiding or mitigating an environmental effect, and would not conflict with existing land use plan, policy, or regulations related to the environment. Therefore, the proposed ordinance would not result in land use and planning impacts.

- X. c) The proposed ordinance requires adult-oriented business to be located in the GC or IC zones that would generally not be included in a habitat conservation plan or natural community conservation plan. Compliance with the Performance Standards detailed in Chapter 83.01 (General Performance Standards) of the Development Code and the Operating Standards of detailed in Chapter 84.02 (Adult-oriented Businesses) of the Development Code will be confirmed in the application process, in accordance with the Adult-oriented Business Regulatory Permit procedures. In addition, the Performance Standards included in the application packet, which an applicant must certify that his/her project meets or exceeds as part of the project review process are designed to protect biological resources, and any adult-oriented business uses would be required to comply with other local, regional, state, and federal regulations, including habitat conservation plans and natural community conservation plans that may be applicable to a proposed adult-oriented use site. Therefore, conflicts with an applicable habitat conservation plan or natural community conservation plan would not result from implementation of the proposed ordinance.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XI. MINERAL RESOURCES</b> - Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**SUBSTANTIATION** (Check ☒ if project is located within the Mineral Resource Zone Overlay):

- XI a-b) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC, which are generally not mineral resource locations. In addition, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Mineral Resources Overlay. As such, a proposed adult-oriented business located within a Mineral Resources Overlay zone shall require implementation of Development Standards as provided in Section 82.17.040 (Development Standards). Therefore, the County's review process includes safeguards to ensure that projects will not result in impacts related to loss of availability of a known or locally important mineral resource.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XII. NOISE - Would the project:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>SUBSTANTIATION</b>	(Check if the project is located in the Noise Hazard Overlay <input checked="" type="checkbox"/> or is subject to severe noise levels according to the General Plan Noise Element) <input type="checkbox"/>			

XII. a) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses that are limited to the CG and IC zones. Compliance with Performance Standards detailed in Chapter 83.01 (General Performance Standards) of the Development Code and Operating Standards detailed in Chapter 84.02 (Adult-oriented Businesses) of the Development Code, as well as all other provisions of the Development Code will be confirmed in the application process, in accordance with the Adult-oriented Business Regulatory Permit application procedures. Therefore any potential impacts relative to noise will be avoided.

XII. b) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses that are limited to the CG and IC zones. Under the proposed ordinance, adult-oriented business would continue to be required to comply with the County's adopted noise standards, including County Code Section 83.01.090 (Vibration), which provides standards for groundborne vibration. Therefore, implementation of the proposed ordinance would not result in the exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels, and impacts would not occur.

XII. c-d) As described in response a), the proposed ordinance provides regulations related to the location and operation of adult-oriented businesses that are limited to the CG and IC zones, and the application packet includes Performance Standards that state the project must meet the general performance standards provided in Chapter 83.01 of the Development Code, which includes noise. As such, noise levels generated by adult-oriented business will not exceed any adopted standards. Therefore, implementation of the proposed ordinance would not result in either permanent or temporary substantial increases in ambient noise levels, and impacts related to noise would not occur.

XII. e-f) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, proposed adult-oriented uses would be subject to guidelines of applicable airport land use plans. Furthermore, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Airport Safety Overlay. As such, a proposed adult-oriented business located within an Airport Safety Overlay zone shall require Review Procedures and Development Standards as provided in Section 82.09.050 (Review Procedures) and Section 82.09.060 (Development Standards). Therefore, the proposed ordinance would not result in impacts related to exposure of people residing or working near an airport or airstrip to excessive noise levels.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XIII. POPULATION AND HOUSING - Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### SUBSTANTIATION

XIII.a) The proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones. The proposed ordinance does not propose new homes, businesses, roads, or infrastructure; and would not induce substantial population growth. Conversely, the ordinance includes distance requirements from sensitive uses and other adult-uses that would limit the areas where new adult-oriented businesses could be located, and may act as a constraint to growth of adult-business uses. As a result, implementation of the proposed ordinance would not result in impacts related to growth.

XIII. b-c) The proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones, and would require adult-oriented uses to be separated from residential uses. The proposed ordinance would not displace housing units or people, and would not necessitate the

construction of housing. Impacts related to population and housing would not occur from implementation of the proposed ordinance.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XIV. PUBLIC SERVICES</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **SUBSTANTIATION**

XIV. a.i) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. Adult-oriented uses are also subject to the County's development requirements, which include the Uniform Building Code and reviews from the County's Fire Department. Furthermore, a Performance Standard is included in the application packet that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Fire Safety Overlay. As such, a proposed adult-oriented business located within a Fire Safety Overlay shall require implementation of Development Standards as provided in Sections 82.13.050 (General Development Standards) through 82.13.090 (Alternate Hazard Protection Measures). Therefore, the County's review process includes safeguards to ensure that projects will not result in impacts related to the need for fire protection services, which would cause a need for new, or physically altered, fire protection facilities.

XIV. a.ii) The proposed ordinance would regulate the location and operation of adult-oriented businesses, and includes requirements for security lighting and security systems that records identification of persons entering and exiting the facility and parking lot activities. In addition, permits for adult-oriented facilities would be reviewed and by the Sheriff's Department prior to approval to ensure compliance with the County's Code requirements related to crime prevention. Therefore, the proposed ordinance would not result in impacts related to the need for Sheriff's Department services, which would cause a need for new, or physically altered facilities.

XIV. a.iii) The proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones. The proposed ordinance does not propose new homes, businesses, or other

uses that would induce population growth. The proposed ordinance would not result in an increase in the student population of the County, or otherwise involve school facilities. As a result, impacts related to the need for new, or physically altered, schools would not occur.

XIV. a.iv) The proposed ordinance would regulate the location and operation of adult-oriented businesses. Adult-oriented uses would be limited to areas zoned as CG or IC, and would require a setback from park or community center uses. The proposed ordinance does not otherwise involve park facilities and would not result in an increase in the use of existing facilities, such that a need for new, or physically altered, parks would occur.

XIV. a.v) As described in responses a.i) through a.iv), the proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones. The proposed ordinance does not propose new homes, businesses, or other uses that would induce population growth. The proposed ordinance would not result in a population increase that would require public facilities. As a result, impacts related to the need for new, or physically altered, public facilities would not occur.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XV. RECREATION</b>				

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### **SUBSTANTIATION**

XV a-b) The proposed ordinance would regulate the location and operation of adult-oriented businesses. Adult-oriented uses would be limited to areas zoned as CG or IC, and would require a minimum of 500-foot setback from park or community center uses, except when in a Rural Living (RL) zone, which would require a 250-foot setback. The proposed ordinance does not otherwise involve recreation facilities and would not result in an increase in the use of existing facilities, such that substantial physical deterioration would occur. In addition, the proposed ordinance does not require the construction or expansion of recreation facilities. Therefore, implementation of the proposed ordinance would not result in impacts related to recreation facilities, or related to construction of recreation facilities.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XVI. TRANSPORTATION/TRAFFIC - Would the project:</b>				

- a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into

account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the County congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## **SUBSTANTIATION**

XVI. a-b) The proposed ordinance regulates the location and operation of adult-oriented business uses within the GC and IC zones. The proposed ordinance does not propose new uses that would induce population growth or result in substantial traffic volumes, or otherwise conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system. In addition, a Performance Standard is included in the application packet that states that a proposed adult-oriented business shall have adequate access and circulation and comply with the General Development and Use Standards provided in Sections 83.02.030 (Clear Sight Triangles) through 82.02.080 (Allowed Projections/Structures Within Setbacks), and the Installation of Street Improvement requirements provided in Sections 83.05.050 (Installation of Street Improvements) through 83.05.080 (Building Official Determination). Therefore, implementation of the proposed ordinance would not result in impacts related to traffic congestion, conflict with traffic programs, or County performance standards.

XVI. c) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, proposed adult-oriented uses would be subject to guidelines of applicable airport land use plans. Furthermore, a Performance Standard is included in the application packet requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Airport Safety Overlay. As such, that a proposed adult-oriented business located within an Airport Safety Overlay shall require Review Procedures and Development Standards as provided in Section 82.09.050 (Review Procedures) and Section 82.09.060 (Development Standards). Therefore, the proposed ordinance would not result in impacts related to a change in air traffic patterns that results in a substantial safety risk.

- XVI. d) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. The proposed ordinance does not propose new uses or hazardous design features that could result in traffic impacts. In addition, the ordinance requires separation distances from sensitive or other adult-oriented uses to ensure that incompatible uses would not occur. The intent of the proposed ordinance is to provide appropriate locations for adult-oriented uses that would not conflict with the existing community. Therefore, the proposed ordinance would not result in an increase in hazards due to design features or incompatible uses.
- XVI. e) The proposed ordinance would regulate the location and operation of adult-oriented businesses to areas zoned as CG or IC. In addition, proposed adult-oriented uses would be subject to the County's development requirements, which includes the Uniform Building Code, and reviews from the County's Fire Department to ensure emergency access. Furthermore, a Performance Standard is included in the application packet that states that an adult-oriented business shall provide site and emergency access pursuant to the requirements in the Uniform Fire Code, included in the County Code Sections 23.0101 (Findings and Adoption of the Uniform Fire Code) through 23.0111 (Validity Clause). Therefore, the proposed ordinance would not result in impacts related to inadequate emergency access.
- XVI. f) The proposed ordinance would regulate the location and operation of adult-oriented businesses. Adult-oriented uses would be limited to areas zoned as CG or IC and would be required to comply with other portions of the County's Code related to transit, bicycle, and pedestrian facilities, as applicable. The proposed ordinance does not otherwise involve alternative transportation and would not result in a conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities.

<i>Issues</i>		<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XVII.</b>	<b>UTILITIES AND SERVICE SYSTEMS - Would the project:</b>				
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f) Be served by a landfill(s) with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## **SUBSTANTIATION**

- XVII. a) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones, and the application packet includes a Performance Standard that states an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 83.15 (Conditional Compliance for Water Quality Management Plans), and the Pollutant Discharge Elimination System Regulations as provided in Sections 35.0101 (Authority) through 35.0132 (Notice to Remediate). Therefore, the proposed ordinance would not result in conflicts with requirements of the RWQCB.
- XVII. b) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones, and as described in Section 13, Population and Housing, implementation of the proposed ordinance would not induce substantial population growth. In addition, adult-oriented businesses would continue to be regulated by the other provisions in the County Code, including Chapter 83.09 (Infrastructure Improvement Standards), that requires CG and IC uses be served by wastewater purveyors. Because the proposed ordinance would not induce growth and would require compliance with existing regulations related to water use and wastewater services, impacts related to wastewater treatment facilities would not occur.
- XVII. c) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, which are limited to the CG and IC zones. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by the other provisions in the County Code, including Chapter 83.09 (Infrastructure Improvement Standards). In addition, adult-oriented uses would continue to be required to control stormwater consistent with the existing requirements of the RWQCB. Therefore, implementation of the proposed ordinance would not result in impacts related to construction of new storm water drainage facilities.
- XVII. d) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses, which are limited to the CG and IC zones. Under the proposed ordinance, adult-oriented businesses would continue to be regulated by the other provisions in the County Code, including Chapter 83.09 (Infrastructure Improvement Standards), that requires CG and IC uses be served by water purveyors. In addition, adult-oriented uses would continue to be regulated by local and regional regulations related to water use. Also, the application packet includes a Performance Standard that states that an adult-oriented business shall be operated in compliance to the standards in Sections 33.0601 (Authority) through 33.06557 (Violations, Remedies, and Penalties) related to groundwater management and public water supply systems. Therefore, implementation of the proposed ordinance would not result in impacts related to water supplies, and would not require expanded water entitlements.
- XVII. e) Refer to response b). The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones, and implementation of the proposed ordinance would not induce substantial population growth. In addition, adult-oriented businesses would continue to be regulated by the County Code. Because the proposed ordinance would not induce growth and would require compliance with existing regulations related to wastewater, impacts related to wastewater treatment facilities would not occur.

XVII. f-g) The proposed ordinance provides regulations related to the location and operation of adult-oriented businesses in the CG and IC zones. Adult-oriented businesses do not generate large volumes of solid waste. In addition, the application packet includes a Performance Standard that states that waste materials shall be stored, handled, and disposed of in compliance with Section 83.01.100 (Waste Disposal), and Chapter 84.24 (Solid Waste/Recyclable Materials Storage). Therefore, the proposed ordinance would not result in impacts related to landfill capacity and compliance with solid waste regulations.

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorp.</i>	<i>Less than Significant</i>	<i>No Impact</i>
<b>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE:</b>				

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### **SUBSTANTIATION**

XVIII. a) The proposed ordinance would regulate the location and operation of adult-oriented businesses within areas zoned as CG or IC. The proposed adult-oriented business ordinance would not have the potential to reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animals. Generally, the CG (General Commercial) and IC (Community Industrial) zones in the County generally do not contain areas of sensitive habitat or where sensitive species may be found. In addition, compliance with the Performance Standards included in the application packet, along with those detailed in Chapter 83.01 (General Performance Standards) and the requirements of Chapter 82.11 (Biotic Resources Overlay) of the Development Code, will be confirmed in the application process. Therefore, any potential impacts on biological resources will be avoided. Additionally, an adult-oriented business shall be constructed and operated in compliance to the standards in Chapter 88.01 (Plant Protection and Management) and Chapter 88.02 (Soil and Water Conservation). As a result, the proposed ordinance would not result in impacts these biological resources. In addition, the application packet includes Performance Standards that requires that all adult-oriented businesses comply with the requirements of all overlays in which they are located, including the Cultural

Resources Preservation and Paleontologic Resources Overlays. As such, a proposed adult-oriented business located within a Cultural Resources Preservation Overlay shall require implementation of Development Standards as provided in Section 82.12.040 (Development Standards) and Section 82.12.050 (Native American Monitor); and a proposed adult-oriented business located within a Paleontologic Resources Overlay shall require implementation of regulations provided in Section 82.20.030 (Criteria for Site Evaluation for Paleontologic Resources) and Section 82.20.040 (Paleontologist Qualifications). These standards are provided to protect important examples of California's history and prehistory. As a result, implementation of the proposed ordinance would not result in impacts related to cultural or paleontologic resources.

XVIII. b) The proposed ordinance would regulate the location and operation of adult-oriented businesses within areas zoned as CG or IC to mitigate potential adverse secondary effects of these uses and protect the quality of life and neighborhoods in the County. As described throughout this Initial Study, implementation of the proposed ordinance would not result in environmental impacts and includes Performance Standards in the application packet to minimize potential effects of adult-oriented businesses. In addition, adult-oriented businesses are required to comply with the County's Code, regional, state and federal regulations. Implementation of the proposed ordinance would not impacts that are individually limited, but could be incrementally considerable. There are no other past, current, or probable future projects or proposed ordinances that would combine with the proposed ordinance to result in a cumulatively adverse impact. Therefore, cumulative impacts related to the proposed ordinance would not occur.

XVIII. c) The intent of the proposed ordinance is to provide land use and operating regulations that would mitigate potential adverse secondary effects of adult-oriented businesses and protect the quality of life and neighborhoods in the County. The proposed ordinance provides location standards and design standards, and the application packet includes performance standards to minimize potential nuisances and both direct and indirect impacts to human beings. In addition to the proposed ordinance, adult-oriented business would continue to be regulated by the County's Code and other regional, state and federal regulations, as appropriate. The proposed ordinance would be adopted for the purpose of avoiding or mitigating an environmental effect, and would not cause substantial adverse effects on human beings.

## **XIX. MITIGATION MEASURES**

No mitigation measures have been identified for this project.

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## **GENERAL REFERENCES**

Alquist-Priolo Special Studies Zone Act Map Series (PRC 27500)

California Department of Water Resources Bulletin #118 (Critical Regional Aquifers).

CEQA Guidelines, Appendix G

California Standard Specifications, July 1992

County Museum Archaeological Information Center

County of San Bernardino Development Code, 2007

County of San Bernardino General Plan, adopted 2007

County of San Bernardino Identified Hazardous Materials Waste Sites List, April 1998

County of San Bernardino, Countywide Integrated Waste Management Plan.

County of San Bernardino, *San Bernardino County Storm Water Program, Model Water Quality Management Plan Guidance*.

County of San Bernardino Road Planning and Design Standards

Environmental Impact Report, San Bernardino County General Plan, 2007

Federal Emergency Management Agency Flood Insurance Rate Map and Flood Boundary Map

South Coast Air Quality Management District, CEQA Air Quality Handbook, November 1993.

County of San Bernardino, Greenhouse Gas Emissions Reduction Plan, January 6, 2012.

## **Aesthetics Reference**

Caltrans State Scenic Highways: <<http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm>> Accessed April 25, 2013.

## **Air Quality Reference**

California Air Resources Board <<http://www.arb.ca.gov/desig/adm/adm.htm>> Accessed April 25, 2013.

## EXHIBIT 1

### List of Exhibits

**Exhibit #1**

**County of San Bernardino  
Listing of Exhibits to Staff Report to Planning Commission  
December 19, 2013**

***Volume I*****A. Studies Documenting The Negative Secondary Side Effects Of Adult Businesses**

1. Partial Summary of Secondary Effect Studies
2. Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses, compiled by Louis F. Comus III
3. Amarillo, Texas, Planning Department (1977)
4. Austin, Texas, Office of Land Development Services (1986)
5. Beaumont, Texas (1982)
6. Chattanooga, Tennessee (2003)
7. Cleveland, Ohio (1977)
8. Dallas, Texas (1997)
9. Dallas, Texas (2007)
10. Ft. Worth, Texas (2004)
11. Garden Grove, California (1991)
12. Greensboro, North Carolina (2003)
13. Houston, Texas, City Council Report (1997)
14. Indianapolis, Indiana, Department of Metropolitan Development (1984)

***Volume II***

15. Jackson County, Missouri (2008)
16. Kennedale, Texas (2005)
17. Littleton, Colorado (2004)
18. Los Angeles, California, Department of City Planning (1977)
19. Louisville, Kentucky (2004)
20. Report of the Attorney General=s Working Group on the Regulation of Sexually Oriented Businesses, State of Minnesota (1989)
21. New York, New York (1994)
22. Newport News, Virginia (1996)
23. Oklahoma City, Oklahoma (1986)
24. Phoenix, Arizona (1979)
25. St. Cloud, Minnesota (1994)
26. Seattle, Washington, Department of Construction and Land Use (1989)

***Volume III***

27. Spokane, Washington (2001)
28. Times Square, New York City (1994)
29. Tucson, Arizona (1990)
30. Whittier, California (1978)
31. A Methodological Critique of the Linz-Paul Report: A Report to the San Diego City Attorney=s Office (March 21, 2003)
32. Testimony of David Sherman Before the Michigan House Committee on Ethics and Constitutional Law (2000)

33. Closin= Time: Effective Regulation of Adult Businesses= Hours of Operation, by Scott Berthold (2000)
34. Peep Show Establishments, Police Activity, Public Place and Time: A Study of Secondary Effects in San Diego, California, by Daniel Linz *et al.* (2004)
35. Do Peep-shows “Cause” Crime? A Response to Linz, Paul, and Yao, by Richard McCleary *et al.* (2006)
36. “Rural Hotspots: The Case of Adult Businesses,” 19 Criminal Justice Policy Review 153 (2008)
37. “Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD,” Journal of Urban Health (2011)
38. “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota

#### ***Volume IV***

39. 1986 Attorney General’s Report on Pornography, Volume 1

#### ***Volume V***

40. 1986 Attorney General’s Report on Pornography, Volume 2

#### ***Volume VI***

### **B. Other Supporting Documentation**

1. Declarations from Fullerton Police Officers Craig Brower, Mike Chocek, and ABC Investigator Kevin Ortega related to the City of La Habra’s Nuisance Abatement Action for a Totally Nude Facility
2. Police reports of investigations conducted by City of La Habra
3. Interview of Julia (Nude Dancer)
4. Det. Robert Navarro’s presentation on “Harmful Effects of Pornography, Los Angeles Case Study” (1994)

5. “My Personal Experience With Sexually Oriented Business” by Gene McConnell
6. Letter from Lorraine Day, M.D. regarding the AIDS virus
7. Sheriff’s Report to City Council of City of Encinitas, November 9, 1998
8. City of Arcadia Police Department undercover surveillance reports, 2000
9. Reported Communicable Diseases 2006 prepared by the Department of Public Health, San Bernardino County, September 2007
10. Communicable Disease Report 2011 prepared by the Department of Public Health, County of Riverside
11. Epidemiology of HIV/AIDS in Riverside County, 2012 prepared by the Department of Public Health, County of Riverside
12. HIV/AIDS Epidemiology Report, 2010, prepared by County of San Diego Health and Human Services Agency
13. California Communicable Disease Summary 2000, Issued July 2002, prepared by County of Orange Health Care Agency
14. HIV/AIDS Surveillance Statistics, 2003, Issued October 2004, prepared by County of Orange Health Care Agency

## ***Volume VII***

### **C. Published Cases**

1. *4805 Convoy, Inc. v. City of San Diego*, 183 F.3d 1108 (9th Cir. 1999)
2. *7978 Corporation v. Pitchess*, 41 Cal.App.3d 42 (1974)
3. *Anheuser-Busch v. Schmoke*, 101 F.3d 325 (4th Cir. 1996)
4. *Baby Tam & Co., Inc. v. City of Las Vegas* (ABaby Tam I@), 154 F.3d 1097 (9th Cir. 1998)
5. *Baby Tam & Co., Inc. v. City of Las Vegas* (ABaby Tam II@), 199 F.3d 1111 (9th Cir. 2000)

6. *Baby Tam & Co., Inc. v. City of Las Vegas* (A*Baby Tam III*@), 247 F.3d 1003 (9th Cir. 2001)
7. *Bamon Corporation v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991)
8. *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991)
9. *Berry v. City of Santa Barbara*, 40 Cal.App.4th 1075 (1995)
10. *Brownell v. City of Rochester*, 190 F.Supp.2d 472 (W.D.N.Y. 2001)
11. *BSA, Inc. v. King County*, 804 F.2d 1004 (9th Cir. 1986)
12. *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2004)
13. *Chamblee Visuals, LLC v. City of Chamblee*, 506 S.E.2d 113 (Ga. 1998)
14. *City of Colorado Springs v. 2354 Inc. dba Baby Dolls*, 896 P.2d 272 (Co. 1995)
15. *City of Erie v. Pap's A.M.* ("Kandyland"), 529 U.S. 277 (2000)
16. *City of Littleton, Colorado v. Z.J. Gifts D-4*, 541 U.S. 744 (2004)
17. *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002)
18. *City of National City v. Wiener*, 3 Cal.4th 832 (1993)
19. *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986)
20. *City of Vallejo v. Adult Books*, 167 Cal.App.3d 1169 (1985)
21. *Club Southern Burlesque, Inc. v. City of Carrolton*, 265 Ga. 528, 457 S.E.2d 816 (1995)
22. *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998)
23. *Crawford v. Lungren*, 96 F.3d 380 (9th Cir. 1996)
24. *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007)
25. *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal.App.3d 980 (1985)

26. *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board of California* (“Vicary”), 99 Cal.App.4th 880 (2002)
27. *Déjà Vu of Nashville, Inc. v. Metro Gov’t of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001)
28. *Diamond v. City of Taft*, 215 F.3d 1052 (9th Cir. 2000)
29. *DiMa Corp. V. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999)
30. *Doctor John’s, Inc. v. City of Roy*, 465 F.3d 1150 (10th Cir. 2006)
31. *Dream Palace v. County of Maricopa*, 384 F.3d 990 (9th Cir. 2004)

### **Volume VIII**

32. *DLS, Inc. v. City of Chattanooga*, 894 F.Supp. 1140 (E.D. Tenn. 1995)
33. *Doe v. City of Minneapolis*, 898 F.2d 612 (8th Cir. 1990)
34. *Ellwest Stereo Theatre, Inc. v. Wenner*, 681 F.2d 1243 (9th Cir. 1982)
35. *E.W.A.P., Inc. v. City of Los Angeles*, 56 Cal.App.4th 310 (1997)
36. *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007)
37. *Ford v. State of Texas*, 753 S.W.2d 451 (Tx. 1988)
38. *FW/PBS, Inc. v. City of Dallas*, 837 F.2d 1298 (5th Cir. 1988)
39. *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990)
40. *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005), *amended* 402 F.3d 875
41. *G.M. Enterprises v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003)
42. *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995)
43. *International Eateries v. Broward County*, 941 F.2d 1157 (11th Cir. 1991), *cert. denied* 503 U.S. 920 (1992)
44. *Isbell v. City of San Diego*, 450 F.Supp.2d 1143 (S.D. Cal 2006)

45. *Isbell v. City of San Diego*, 258 F.3d 1108 (9th Cir. 2001)
46. *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986)
47. *Krontz v. City of San Diego*, 136 Cal.App.4th 1126 (2006)
48. *Lacy Street Hospitality Service, Inc. v. City of Los Angeles*, 125 Cal.App.4th 526 (2004)
49. *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F.Sup. 1428 (M.D. Fla. 1997)
50. *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999)
51. *Lakeland Lounge v. City of Jacksonville*, 973 F.2d 1255 (5th Cir. 1992)
52. *Lim v. City of Long Beach*, 217 F.3d 1050 (9th Cir. 2000)
53. *Lydo Ent. v. Las Vegas*, 745 F.2d 1211 (9th Cir. 1984)
54. *Madain v. City of Stanton*, 185 Cal.App.4th 1277 (2010)
55. *McCrothers Corp. d/b/a Tree City Bar, et al. v City of Madan*, 728 N.W.2d 124 (2007)
56. *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993)
57. *National Amusements, Inc. v. Town of Dedham*, 43 F.3d 731 (1st Cir. 1995)
58. *N.W. Enterprises, Inc. v. City of Houston*, 352 F.3d 162 (5th Cir. 2003)
59. *N.W. Enterprises, Inc. v. City of Houston*, 372 F.3d 333 (5th Cir. 2004)
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