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July 25, 2017

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**PUBLIC HEARING ON PROPOSED PERMIT FEES FOR
THE DEPARTMENT OF PUBLIC HEALTH
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

SUBJECT

Request approval of the proposed permit fees for the Department of Public Health.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

Approve the new permit fees, as reflected in Attachment I, as a result of amendments to Measure B, County of Los Angeles Safer Sex in the Adult Film Industry Act. These fees, when approved, will become effective for service dates on or after August 1, 2017.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On December 14, 2012, Measure B, County of Los Angeles Safer Sex in the Adult Film Industry Act, an ordinance to implement a new public health permit associated with the production of adult films, became law. The intent of Measure B was to improve the safety of workers in the adult film industry. This was to be accomplished by imposing a permitting system that requires producers to obtain a newly designated public health permit for a fee before beginning production on an adult film; demonstrate that employees have completed a county-approved training program concerning blood-borne pathogens; display the permit while filming; require performers to use condoms during any acts of vaginal or anal sex; post a notice at the film site that the use of condoms is required; report to the Department of Public Health (DPH) any changes in the permitted business; and lastly, to comply with all applicable laws, including Title 8, Section 5193 of the California Code of Regulations.

The recommended action will allow DPH to finalize a permitting system that requires producers to obtain a newly designated public health permit for a fee before beginning production on an adult film, and for the biennial renewal of the permit. Attachment I is the list of fees associated with obtaining an initial permit, subsequent biennial renewal of the permit, and hourly rates for re-inspection. The permit fee considers staff salaries based on time spent on permitting activities, operating expenses, and overhead. Time spent on complaint investigation has also been factored in assuming one complaint submitted annually for every four (4) permits that are approved.

Implementation of Strategic Plan Goals

The recommended actions support Strategy 11.2 Support the Wellness of Our Communities and Strategy 111.3 Pursue Operational Effectiveness, Fiscal Responsibility and Accountability of the County Strategic Plan.

FISCAL IMPACT/FINANCING

The recommended permit fee structure will recover the costs of services provided by Public Health Investigation (PHI) staff, operating expenses, and overhead.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Legal action was taken by the adult film industry proposing that the permitting scheme and its condom requirement placed restraints on creative expression protected by the first amendment. The district court issued a preliminary injunction forbidding the County from: enforcing the discretionary fee setting provision; performing warrantless searches by county health officers of any location suspected of producing adult films; and the broad permit modification suspension and revocation process. Defendants appealed this decision and in December 2014 the appellate panel affirmed the district court's order denying, and affirming in parts, the plaintiffs' motion to enjoin the voter-initiated Measure B. This decision required DPH's public health permit fee be cost neutral to the County.

Los Angeles County Title 11.39, Adult Films, Section 11.39.080, Adult Film Production Public Health Permit, states that producers of adult films shall obtain a public health permit by filing a completed application form with the department and paying the required fee. The fee shall be set by the Department in an amount sufficient to provide for the cost of any necessary enforcement.

DPH's PHI Division is empowered with regulatory authority relating to public health with which it performs mandated services including, but not limited to, inspections and investigations related to the transmission of sexually transmitted infections. The State and local health and safety codes provide DPH with the authority to carry out regulatory activities to protect public health and safety. These regulatory activities are principally offset by the collection of fees for permits and services.

In accordance with Government Code, Section 66018, a public hearing will be held as required, prior to adopting a new fee. Also, in compliance with Government Code, Section 6062a, a notice of Public Hearing (Attachment II) will be published by the Executive Office.

The Auditor-Controller's Office has reviewed and approved the method for determining the proposed permit fees as to reasonableness. By definition, these inspection and service fees are not a "tax" and are exempt from voter approval pursuant to Article XII C section 1(e)(1)-(3) of the California Constitution, also known as Proposition 26.

County Counsel has reviewed and approved Attachment I and Attachment II as to content and form.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no anticipated impact on current services as a result of this action. Approval of this action will allow DPH to implement the new public health permit fees associated with the production of adult films according to Los Angeles County Title 11.39, Adult Films and as approved by your Board.

Respectfully submitted,

A handwritten signature in black ink that reads "Barbara Ferrer". The signature is written in a cursive, flowing style.

Barbara Ferrer, PhD, MPH, MEd

Director

BF:ld
#03953

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller
Treasurer and Tax Collector

**COUNTY OF LOS ANGELES – DEPARTMENT OF PUBLIC HEALTH
ADULT FILM PERMIT FEES AND HOURLY RATES**

Original Adult Film Permit	\$ 1,671.82
Biennial Renewal of Adult Film Permit	982.13

Re-Inspection Hourly Rates:

Public Health Investigator

Regular	64.78
Overtime	89.77

Public Health Investigator Manager

Regular	84.33
Overtime	116.86

**NOTICE OF PUBLIC HEARING
DEPARTMENT OF PUBLIC HEALTH: PROPOSED PERMIT FEES
TO BE HELD JULY 25, 2017**

Notice is hereby given that a public hearing will be held by the Board of Supervisors regarding the proposal of permit fees as a result of amendments to measure B, County of Los Angeles Safer Sex in the Adult Film Industry Act. The proposed permit fees, when approved, will become effective for service dates on or after August 1, 2017.

Said hearing will be held on **July 25, 2017 at 9:30 a.m.**, in the Hearing Room of the Board of Supervisors, Room 381B, Kenneth Hahn Hall of Administration, 500 West Temple Street (corner of Temple Street and Grand Avenue), Los Angeles, California 90012.

The Board of Supervisors will consider and may adopt the proposal. Further, notice is given that the Board of Supervisors may continue this hearing from time to time.

Written comments may be sent to the Executive Office of the Board of Supervisors at the above address. If you do not understand this notice or need more information, please call the County of Los Angeles, Department of Public Health, Bureau of the Medical Director/Disease Control at (323) 890-7801.

Si no entiende esta noticia o si necesita mas información, favor de llamar (323) 890-7801.

Lori Glasgow
Executive Officer
Board of Supervisors