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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11
12 RICHARD HOPP, an individual

13 Plaintiff,

14 vs.

15 CITY OF LOS ANGELES, a Municipal
16 Corporation

17 Defendant.

CASE NO. BC 401 887

[Assigned to Hon. Malcolm H. Mackey,
Dept. 55]

**DEFENDANT'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION FOR
JUDGMENT ON THE PLEADINGS**

Hearing

Date: March 3, 2009

Time: 8:30 a.m.

Dept: 55

19
20 TO THE HONORABLE COURT AND ALL INTERESTED PARTIES:

21
22 The Court may take judicial notice of regulations and legislative enactments of public
23 entities. Cal. Evid. Code § 452(b). Defendant City of Los Angeles (the "City") respectfully
24 requests that the Court take judicial notice of the following Municipal Code sections:

25 Los Angeles Municipal Code section 21.199, attached hereto as Exhibit "1."

26 Los Angeles Municipal Code section 103.01, attached hereto as Exhibit "2."

27 Los Angeles Municipal Code section 103.31, attached hereto as Exhibit "3."


28 Los Angeles Municipal Code section 103.301, attached hereto as Exhibit "4."

1 Los Angeles Municipal Code section 103.310, attached hereto as Exhibit "5."
2 San Diego Municipal Code section 33.0101, attached hereto as a portion of Exhibit "6."
3 San Diego Municipal Code Section 33.0103, attached hereto as a portion of Exhibit "6."
4 San Diego Municipal Code section 33.0305, attached hereto as Exhibit "7."
5 San Diego Municipal Code section 33.1101, attached hereto as a portion of Exhibit "8."
6 San Diego Municipal Code section 33.1103, attached hereto as a portion of Exhibit "8."

7
8 Respectfully submitted,

9
10 DATED: January 30, 2009

11 ROCKARD J. DELGADILLO, City Attorney
12 LAURIE RITTENBERG, Assistant City Attorney
13 GABRIEL S. DERMER, Deputy City Attorney

14 By 
15 GABRIEL S. DERMER
16 Deputy City Attorney

17 Attorneys for Defendant CITY OF LOS ANGELES
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Exhibit 1

Official City of Los Angeles Municipal Code (TM)

SEC. 21.199. SALES TAX.

(a) **Imposition and Rate of Sales Tax.** (Reenacted, Amended by Ord. No. 137,130, Oper. 10/1/68) For the privilege of selling tangible personal property at retail a tax is hereby imposed, in addition to any other tax imposed under this article or under this chapter, upon all retailers at the rate of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City of Los Angeles on or after October 1, 1968, and to and including March 31, 1969.

Notwithstanding the foregoing provisions of this subsection, the tax imposed by this section shall not apply to selling tangible personal property at fixed prices agreed to in contracts executed in good faith prior to October 1, 1968.

For the purposes of this section, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination, or to a common carrier for delivery to an out-of-state destination. The gross receipts from sales shall include delivery charges when such charges are subject to the sales and use tax imposed by the State of California, regardless of the place to which delivery is made. In the event a retailer having a place of business within the City also has a place of business outside the City, both of which participate in some degree in a particular sale, the sale shall be deemed to have occurred within the City of Los Angeles if the principal negotiations were carried on there or by personnel normally assigned to that place of business. In the event a retailer has no permanent place of business in the City, but nevertheless engages in selling tangible personal property in the City, the sales shall be deemed to have occurred within the City if the sales were solicited or otherwise promoted by the seller or his agent within the City and the seller or his agent delivered the property within the City to a purchaser or to the purchaser's agent.

(b) **Reimbursement.** The retailer shall reimburse himself for the tax due from the consumer substantially in accordance with the following table up to the amount specified herein:

[Sales Tax — Retailer Reimbursement]

1 %

Price			Tax
.01 - .49	-00
.50 - 1.49	-01
1.50 - 2.49	-02

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2.50 - 3.4903
3.50 - 4.4904
4.50 - 5.4905
5.50 - 6.4906
6.50 - 7.4907
7.50 - 8.4908
8.50 - 9.4909
9.50 - 10.4910

The remainder of the schedule shall show amounts of reimbursement computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(c) **Unlawful Advertising.** It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or that, if added, it or any part thereof will be refunded.

(d) **Tax Levied as State Sales & Use Tax Law.** The tax hereby levied, except as otherwise provided, is levied in the same manner, to the same extent and under the same conditions as sales taxes are levied pursuant to Part 1 of Division 2 of the California Revenue and Taxation Code, known as the "Sales and Use Tax Law," as amended and in force and effect on October 1, 1968.

(e) **Extension of Time; Due Date: Penalties.** The Director of Finance, for good cause, may extend for not more than 45 days the time for making any return or paying any sum required to be paid hereunder. The extension may be granted at any time provided a written request therefor is filed with the Director of Finance prior to the delinquency date.

All taxes payable monthly and all taxes payable quarterly hereunder shall be deemed delinquent if not paid on or before the close of business on the last day of the month following the monthly or quarterly period for which the tax is payable. Taxes payable hereunder for periods other than monthly or quarterly periods shall be deemed delinquent at the times designated by the Director of Finance in his rules and regulations. Whenever tax required to be paid by this section is not paid on or before the date on which it becomes delinquent, penalties and interest shall accrue and deficiency determinations shall be made in the manner provided in Sec. 21.05 and

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Sec. 21.15.

Each retailer shall, on or before the last day of the month following the close of each calendar quarter, make a statement to the Director of Finance on forms provided by him, of the total gross receipts received during the preceding quarter. At the time the statement is filed, the full amount of tax due shall be paid to the Director of Finance. Where the Director of Finance determines that efficiency in the administration of the tax would be promoted, he may establish reporting periods greater than quarterly, but not to exceed one year, for retailers who sell tangible personal property only occasionally or seasonally. The Director of Finance may establish shorter reporting periods for any retailer if he deems it necessary in order to insure connection of the tax and he may require further information in the statement. Statements and payments are due immediately upon cessation of business for any reason.

In addition to the powers of the Director of Finance mentioned in the foregoing paragraphs, he may, under circumstances set forth in Subsection (j) of this section require prepayment of taxes.

(f) **Registration; Permits.** Every person desiring to engage in or conduct business as a seller within the City of Los Angeles shall secure from the Director of Finance of said City a permit for each place of business. Such permits shall be issued by the Director of Finance upon receipt of a written application therefor setting forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business and such other information as the Director of Finance may require. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A change of location may be endorsed upon the permit by the Director of Finance. The permit shall at all times be conspicuously displayed at the place for which issued.

(g) **Revocation of Permit; Renewal of Permit.** Whenever any person fails to comply with any provision of this section or any rule or regulation adopted pursuant hereto, the Director of Finance, upon hearing, after giving such person ten days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by such person. The notice may be served personally or by mail in the manner prescribed for service of notice in Sec. 11.00(i) or in Sec. 21.16 of this Code. The Director of Finance shall not issue a new permit unless he is satisfied that the former holder of the permit will thereafter comply with the provisions of this section and the rules and regulations adopted hereunder.

(h) **Selling Without Permit.** A person who engages in business as a seller in the City without a permit or permits, or after a permit has been suspended, and each officer of any

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corporation which so engages in business is guilty of a misdemeanor.

(i) **Violation of Ordinance.** The Director of Finance may at his option accept a State of California Resale Certificate as evidence that any sale is not a sale at retail, or he may in his discretion require an affidavit from the seller setting forth such information respecting such sale as he deems necessary to determine the nature of such sale.

(j) **State Resale Certificate Optional.** All provisions of the Sales and Use Tax Law, Part 1, Division 2 of the Revenue and Tax Code of the State of California, as amended and in force and effect on October 1, 1968, except the provisions pertaining solely to the Use Tax and Sections 6051, 6052, 6052.5, 6053, 6066, 6067, 6068, 6069, 6070, 6071, 6072, 6271 to 6292 inclusive, 6451, 6459, 6470, 6481 to 6592, inclusive, 6701 to 6799, inclusive, 6826 to 6828, inclusive, 6901 to 6937, inclusive, 6961 to 6963, inclusive, 6981, 7051 to 7056, inclusive, 7057, 7101 to 7154, inclusive, and 7176 applicable to sales of property at retail, are hereby adopted and made a part of this section as though fully set forth herein and all provisions of this Code conflict therewith are inapplicable to this section and the tax hereby imposed. All of the provisions of the California Sales and Use Tax Law hereby adopted, providing for the performance of official action on the part of the State Board of Equalization shall be performed by the Director of Finance of the City of Los Angeles.

(k) **Sections of State Law Adopted by Reference; Suit for Collection of Tax.** The term "**gross receipts**" as used herein does not include (1) the amount of any federal tax imposed upon or with respect to retail sales, whether imposed upon the retailer or upon the consumer, and regardless of whether or not the amount of federal tax is stated to customers as a separate charge; and (2) the amount of any California State or local Sales or Use Tax.

(l) **Gross Receipts Defined.** In addition to the exemptions contained in Part 1 of Division 2 of the Revenue and Taxation Code of the State of California, there shall be excluded from the computation of the tax gross receipts from;

1. Sales of property which is shipped to a point outside this City pursuant to the contract of sale by delivery by the retailer to such a point by means of (A) facilities operated by the retailer; (B) delivery by the retailer to a carrier for shipment to a consignee at such point; or (C) delivery by the retailer to a customs broker or forwarding agent for shipment outside this City.

(m) **Administration of Ordinance; Rules and Regulations.** The Director of Finance shall administer and enforce the provisions of this section and, with the approval of the City Attorney, shall prescribe, adopt and enforce reasonable rules and regulations for the purpose of

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administering and enforcing the section. Each of said rules and regulations which relate to the time, form and manner of making returns and payments of the taxes imposed hereby shall govern, notwithstanding any other provision of this article to the contrary. Such rules and regulations, among other things, require each retailer to keep such records, receipts, invoices and other pertinent papers in the manner therein set forth.

Inasmuch as this section is patterned after the Sales Tax provisions of the Revenues and Taxation Code of the State of California, and the State Board of Equalization has made various rules and regulations pertaining to the interpretation, administration and enforcement of said provisions of the Revenue and Taxation Code, and it may be reasonably assumed that the City of Los Angeles will be confronted with many of the problems dealt with in the state rules and regulations, each such rule and regulation, in so far as applicable, shall apply in the interpretation of this section until specifically abandoned by rules and regulations adopted by the Director of Finance pursuant to the authority of this section.

(n) **Inclusion of Portion of State Law.** The inclusion of any clause, portion or part of the State Sales and Use Tax Law, Part 1, Division 2 of the Revenue and Taxation Code of the State of California, verbatim in this section shall not in or of itself be deemed to exclude any of the remaining provisions of said Sales and Use Tax Law that are made a part hereof by reference only.

(z) **Validity of Ordinance.** If any subsection, sentence, clause, phrase or portion of this section, including but not limited to any exemption, is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section. The Council of this City hereby declares that it would have adopted this section and each subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Exhibit 2

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SEC. 103.01. DEFINITIONS.

(Amended by Ord. No. 175,676, Eff. 1/11/04.)

Applicant means a person who files an application for a permit from the Board.

Board means the Board of Police Commissioners or the Police Permit Review Panel if the Board delegates the authority to the Panel pursuant to Section 102.13.01(d).

Business means any occupation, trade, establishment or concern, regardless of form, which provides services, products or entertainment for which a permit is required under this article, whether or not a permit has been granted, sought, applied for, denied, revoked or suspended.

Director of Finance means the Director of Finance for the City of Los Angeles, or his or her deputy.

Employee means any and all persons, including operators, managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of the business, whether or not the person is paid compensation by the business. This definition does not apply to persons incidentally involved with the business, such as persons delivering goods, food and beverages, or performing maintenance or repairs to the business premises.

Entertainer means any person who performs specified sexual activities or displays specified anatomical parts in a business.

Hearing Examiner means any person appointed by the Board to conduct hearings provided by this article.

Manager means any person appointed by an owner, operator or permittee of a business, who manages, directs, administers, or is in charge of the affairs and/or the conduct or operation of a business. This definition includes assistant managers.

Owner means (1) a sole proprietor or person(s) who own or operate a business; (2) all general partners of a partnership that owns or operates a business; (3) all officers of a corporation and all persons who own a controlling interest in a corporation or other limited liability entity that operates a business.

Patron means any individual, other than an employee, present in or at the business premises at any time during the hours of operation. This definition does not apply to persons incidentally involved with the business, such as persons delivering goods, food and beverages, or

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performing maintenance or repairs to the business premises.

Permittee means any person having a valid permit issued by the Board as required by the Los Angeles Municipal Code.

Premises means the building and real property occupied or used in the operation of the business, or the space in the building occupied by the business if the business does not utilize the entire building in the operation of the business.

Sexually oriented material means any element of sexually oriented merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video, compact disc, or other written, oral or visual representation, which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

Sexually oriented merchandise means sexually oriented implements and paraphernalia, such as, but not limited to condoms, lap dance bags, benwa balls, dildos, auto sucks, sexually oriented vibrators, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices that are designed or marketed primarily for the stimulation of or use with the stimulation of human genital organs or for sadomasochistic activity.

Specified anatomical parts means:

1. Less than completely and opaquely covered human genitals, pubic hair, buttocks, natal cleft, perineum, anus, anal region, pubic region, or female breast below a point immediately below the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

1. Actual or simulated: sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship; or any of the following depicted sexually oriented acts or conduct, whether actual or simulated: anilingus, buggery, coprophilia, coprophagy, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism, urophilia, zooerastia, zoophilia; or

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2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal ejaculation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, natal cleft, anal region, anus, or female breast; or
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
6. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
7. The presence of any person who performs a striptease, or appears in attire where specified anatomical parts are either not opaquely covered or minimally covered with bikinis, lingerie, or devices commonly referred to as pasties and G-strings, or any other similar opaque covering.

Exhibit 3

SEC. 103.31. DENIAL OF APPLICATION.

(Amended by Ord. No. 179,836, Eff. 6/7/08.)

If the Board determines that the application does not satisfy the requirements of this article, it shall deny the application. The Board may also deny a permit on any of the following grounds:

**(a) Grounds for Denial of Application Issued Subject to this Article.
(Except Sections 103.101.1, 103.102, or 103.109.)**

1. The applicant made a false or misleading statement of a material fact or omission of a material fact in the application;
2. The applicant is under eighteen years of age;
3. The applicant has committed or aided or abetted in the commission of any act or omission, which, if committed by a permittee, would be a ground for suspension, revocation, or other disciplinary action under this article;
4. The applicant has had a similar type of permit previously denied, suspended or revoked within five years immediately preceding the date of the filing of the application, and the applicant can show no material change in circumstances since the denial, suspension or revocation;
5. The business for which the permit is sought is prohibited by any local or state law, statute, rule or regulation, or prohibited in the particular location by the provisions of Chapter I of this Code;
6. The business for which the permit is sought has been or is a public nuisance;
7. The applicant has within five years immediately preceding the date of the filing of the application been convicted of a felony crime in any jurisdiction involving theft, fraud, violence, sale of a controlled substance as specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or any moral turpitude offense;
8. The applicant has within three years immediately preceding the date of the filing of the application been convicted of any offense listed in Section 103.31(a)(7) that has been made the subject of Section 17(b) of the California

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Penal Code;

9. The applicant has within five years immediately preceding the date of the filing of the application been convicted of any offense involving deceptive trade practices or other illegal business practices reasonably and narrowly related to the nature of conduct of the business for which the application is made; or

10. The business for which the permit is sought has failed to comply with all City business tax and Parking Occupancy Tax laws.

(b) Grounds for Denial of Application Issued Subject to Sections 103.101.1, 103.102, or 103.109. In addition to the grounds set forth in 103.31(a)(1) - (6) above, an application under this article may be denied for the following reasons:

1. The applicant has within five years immediately preceding the date of the filing of the application been convicted of any misdemeanor or felony classified by the state as a sex-related offense, or of any offense described in California Penal Code Sections 266h, 266i, 315, 318, 653.22, or 647(a) or (b);

2. The applicant has within five years immediately preceding the date of the filing of the application been convicted of any offense described in California Penal Code, Part One, Title 9, Chapters 7.5 and 7.6;

3. The applicant has within five years immediately preceding the date of the filing of the application been convicted of a charge of violating any lesser included or lesser related offense, including California Penal Code Section 415, in satisfaction of, or as a substitute for, an original charge of any of the offenses listed in this section;

4. The applicant has been convicted of any offense that requires registration as a sex offender under California Penal Code Section 290; or

5. The business for which the permit is sought has failed to comply with all City business tax and Parking Occupancy Tax laws.

Exhibit 4

SEC. 103.301. ANTIQUE SHOPS.

(a) **Definitions.** As used in this article:

1. "ANTIQUÉ SHOP" means a shop where secondhand merchandise is sold at retail but where at least 90% measured according to value, of the used or secondhand merchandise on hand at any time consists of objects of art, bric-a-brac, curios, or household furniture or furnishings, offered for sale upon the basis, express or implied, that the value of the property, in whole or in substantial part, is derived from its age or from its historical association.

(b) **Permit Requirements.** The operator of any antique shop may, in lieu of the secondhand dealers' permit required by Section 103.311, apply for and obtain a special permit to conduct an antique shop. Every application hereunder must be accompanied by an investigation fee of \$50.00. If the application is approved, an additional fee of \$25.00 shall be collected upon the issuance of the permit, except in those cases where the applicant has already paid the secondhand dealer's permit fee for the same place of business. (Amended by Ord. No. 114,879, Eff. 12/20/59.)

(c) **Change of Location.** A change of location may be endorsed upon a permit hereunder upon written application by a permittee accompanied by a change of location fee as prescribed in Sec. 103.12.

(d) **Must Comply with Secondhand Dealers Regulations.** The holder of an antique shop permit shall obey all of the requirements of this article and the rules and regulations of the Board pertaining to the receipt, handling, disposal, and sale of secondhand merchandise generally, but shall be exempt from the hours of business limitations.

SEC. 103.310. SECONDHAND BOOK DEALERS.

(a) **Definitions.** As used in this section:

1. "SECONDHAND BOOK DEALER" means a person engaging in, conducting, managing or carrying on the business of buying, selling, exchanging or otherwise dealing in secondhand books and magazines, secondhand text books or secondhand educational materials.

2. "SECONDHAND TEXT BOOKS" or "SECONDHAND EDUCATIONAL MATERIALS" means those text books or other materials required or

Exhibit 5

SEC. 103.310. SECONDHAND BOOK DEALERS.

(a) **Definitions.** As used in this section:

1. **“SECONDHAND BOOK DEALER”** means a person engaging in, conducting, managing or carrying on the business of buying, selling, exchanging or otherwise dealing in secondhand books and magazines, secondhand text books or secondhand educational materials.

2. **“SECONDHAND TEXT BOOKS”** or **“SECONDHAND EDUCATIONAL MATERIALS”** means those text books or other materials required or designated by any university, college, school, or other educational institution to be used or which were used by students in studying the courses offered by said institutions. Such text books or other materials voluntarily used by said students in conjunction with those books required or designated by said institutions are included.

(b) **Permit Required.** No person shall engage in, conduct, manage, or carry on the business of secondhand book dealer without a written permit from the Board.

(c) **Change of Location.** A change of location may be endorsed on a permit by the Board upon written application by the permittee accompanied by the change of location fee prescribed in Section 103.12.

(d) **Bills of Sale.** Every secondhand book dealer buying, selling or exchanging or otherwise dealing in secondhand books, secondhand text books or secondhand educational materials or exchanging new text books or new educational materials for secondhand text books or secondhand educational materials, as whole or part payment therefor, shall immediately upon receiving the same, require the seller or other person from whom said secondhand text books or materials are bought, or received in exchange, to execute a bill of sale therefor. Said bills of sale shall be numbered consecutively and shall be kept on file and open during business hours to the inspection of any police officer or representative of the Board.

(e) **Contents of Bill of Sale.** Said bill of sale shall show:

1. **Date.** The date of purchase or receiving in exchange;

2. **Name of Seller.** The name and address of the person selling or exchanging such articles and the name of the educational institution said person is attending or in which he is registered;

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3. **Name of Institution.** The name of the educational institution, if any, requiring or designating the use of such textbooks or materials, including the date of the term or semester during which the same were used;

4. **Name of Purchaser.** The name and address of the purchaser or person receiving said secondhand books, secondhand text books or materials, said name and address coinciding with those showing upon the permit issued by the Board and held by said person;

5. **Description.** A description of the secondhand books, secondhand text books or materials purchased by him sufficient in all respect to clearly identify the same.

(f) **Right to Sell.** A secondhand book dealer who purchases or receives in exchange secondhand books, secondhand text books or other secondhand educational materials shall, prior to making such purchase or exchange, ascertain that the person selling or delivering for exchange any such secondhand books or materials has a legal right to do so.

(g) **Identification of Books.** The secondhand book dealer shall immediately upon purchasing or receiving in exchange any such secondhand books or materials stamp, write, print or otherwise permanently affix to each article so purchased or received the number of the bill of sale covering said articles.

(h) **Signs.** Secondhand book dealers shall maintain on the premises where said business is located a sign plainly printed in the English language of sufficient size so that the same may be easy to read from the sidewalk in front of said place of business. Such sign shall state the business in which such person is engaged. If said business is located in an office building the sign shall be placed on the door of said office. If the business is located in a department of any building, the sign shall be placed at the entrance to said department.

(i) **Exemptions.** This section shall not apply to the receipt or sale of secondhand books, secondhand text books or secondhand educational materials by any person who receives or purchases such books or materials from any other person when such other person has made required reports as fixed by rule or regulation of the Board and shall have held the said books or materials for the length of time therein required.

Exhibit 6

(11-2000)

Article 3: Police Regulated Occupations and Businesses
*(“Police Regulated Business Regulations” retitled to
“Police Regulated Occupations and Businesses”
on 11-20-2000 by O-18885 N.S.)*

Division 1: General Provisions

§33.0101 Certain Businesses and Occupations Police-Regulated; Police Permit Required

- (a) The occupations and businesses in The City of San Diego listed in this Article are subject to the City’s police power and are classified as “police-regulated.”
- (b) All police-regulated occupations and businesses, and all *persons* conducting or proposing to engage in a police-regulated occupation or business, are subject to any investigation and regulation required by this Article as a prerequisite to the granting of a *police permit* to conduct the occupation or business.
- (c) It is a misdemeanor for any *person* to operate a business or engage in an occupation regulated by this Article without a *police permit*. The *police permit* is in addition to any other *license* or *permit* required under any other provisions of the San Diego Municipal Code, including the business tax certificate in Chapter III, Article 1, or any *license* or *permit* required by law.
- (d) It is not a defense in any proceeding brought under this Article that a *license* or *permit* was issued under some other provision of law, nor shall the issuance of a *permit* under this Article be a defense to a *violation* under other sections of this Code.

(“Police Regulated” retitled to “Certain Businesses and Occupations Police-Regulated; Police Permit Required” and amended 11-20-2000 by O-18885 N.S.)

§33.0102 Separate Permits Required

- (a) A separate police permit is required for each police-regulated business activity carried on at a specific location, except for Secondhand Dealers. Secondhand Dealers are only required to obtain one permit per dealer; however, a copy of the permit must be posted in accordance with this Division.

(11-2000)

- (b) Unless otherwise stated, any *person* desiring to operate a police-regulated business and to act in a police-regulated occupation must obtain *permits* to do both.

(“*Inspections and Authority of Peace Officers or Police Employees*” renumbered to Sec. 33.0103; “*Separate Permits Required*” added 11-20-2000 by O-18885 N.S.)

§33.0103 Inspections and Authority of Peace Officers or Police Employees

- (a) The *Chief of Police* shall make, or cause to be made, regular inspections of all police-regulated businesses. Any *peace officer* shall have free access to any police-regulated business during normal operating hours. It is unlawful for any *permittee* or *employee* to prevent or hinder any *peace officer* from conducting an inspection.
- (b) Any police code compliance officer assigned by the *Chief of Police* to conduct inspections shall have free access to any police-regulated business during normal operating hours. It is unlawful for any *permittee* or *employee* to prevent or hinder any police code compliance officer from conducting an inspection.
- (c) The right of reasonable inspection to enforce the provisions of this Article is a condition of the issuance of a *police permit*. The applicant or *permittee* shall acknowledge this right of inspection at the time of application. Refusal to acknowledge this right of inspection is grounds for denial of the application. The right of inspection includes the right to require identification from *responsible persons* or *employees* on the *premises*. The refusal to allow inspection upon reasonable demand or the refusal to show identification by *responsible persons* or *employees* is grounds for the suspension, revocation, or other regulatory action against the *police permit*.

(“*Posting of Licenses or Permits*” renumbered to Sec. 33.0105; “*Inspections and Authority of Peace Officers or Police Employees*” renumbered from Sec. 33.0102 and amended 11-20-2000 by O-18885 N.S.)

Exhibit 7

(11-2000)

§33.0305 Permit Issuance and Grounds for Denial

Except as otherwise provided in this Code, upon completion of the investigation of an applicant, the *Chief of Police* shall issue a *permit* unless:

- (a) the applicant has knowingly made a false or misleading statement of a material fact or omission of a material fact in the application; or
- (b) the applicant is under eighteen years of age, unless the particular business or occupation has a different age requirement pursuant to state or federal law, in which case the state or federal law controls the age requirement; or
- (c) the applicant has had a similar type of *license* or *permit* previously denied, suspended for a total of six months, or revoked, within five years immediately preceding the date of the filing of the application, and the applicant can show no material changes in circumstances since such denial, suspension, or revocation; or
- (d) the applicant has refused to consent to inspection pursuant to Section 33.0103; or
- (e) the applicant is within any of the following categories:
 - (1) within five years immediately preceding the date of application, the applicant has *been convicted* of a felony crime in any jurisdiction involving the following offenses: theft, fraud, violence, sale of a controlled substance as specified in Sections 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or any moral turpitude offense;
 - (2) within three years immediately preceding the date of application, the applicant has *been convicted* of any offense listed in Section 33.0305(e)(1) that has been made the subject of Section 17(b) of the California Penal Code;
 - (3) within five years immediately preceding the date of application, the applicant has *been convicted* of any offense involving deceptive trade practices or other illegal business practices reasonably and narrowly related to the nature of conduct of the business for which the application is made;

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(4) in addition to the other categories, if the applicant is applying for a *permit* to engage in a business regulated under Divisions 9, 11, 32 or 43 of this Article, within five years immediately preceding the date of the application, the applicant has *been convicted* of any offense involving theft or fraud, including the receipt of stolen property, or any financial crime including money laundering and embezzlement.

(f) the applicant has failed to provide proof of any application requirement as set forth in the Division regulating the business or occupation the applicant desires to engage in.

("Approval or Denial Stamped on Application by Investigating Official" repealed; "Issuance or Denial of License or Permit" renumbered from Sec. 33.0304, retitled and amended 11-20-2000 by O-18885 N.S.)

§33.0306 Denial of Permit in Writing

If the *permit* is denied, the notification and reasons therefor shall be set forth in writing and shall be sent immediately to the applicant by means of registered mail or certified mail, or shall be hand-delivered to the applicant.

("Time Allowed for Investigation" repealed; "Denial of Permit in Writing" added 11-20-2000 by O-18885 N.S.)

§33.0307 Application and Regulatory Fees

It is the policy of The City of San Diego that the cost of investigating and processing an application for a *police permit* is to be borne by the applicant. To this end, unless otherwise specified, all applications shall be accompanied by a non-refundable application fee, which will cover the cost of investigating and processing the application. Any *person* who desires to obtain a business *permit* and an occupational *permit* (for example, a *massage establishment permit* and a *massage therapist permit*) shall pay only one application fee if the applications are submitted concurrently.

It is the policy of The City of San Diego that the cost of inspecting, regulating, and enforcing laws relating to police-regulated businesses be borne by the *permittees* in the form of regulatory fees. To this end, unless otherwise specified, regulatory fees shall be paid according to the schedule set in the City Clerk's Composite Rate Book. *("Term of Permit and Renewal" renumbered to Sec. 33.0308; "Application and Regulatory Fees" added 11-20-2000 by O-18885 N.S.)*

Exhibit 8

Article 3: Police Regulated Occupations and Businesses**Division 11: Junk Dealer, Junk Collector, SecondHand Dealer, Pawn Broker****§33.1101 Records Required — Reports Required**

All junk dealers, as defined in Business and Professions Code section 21601, pawnbrokers, as defined in Financial Code section 21000, and dealers in secondhand articles as defined in Business and Profession Code section 21626 shall keep a record in accordance with state law of any and all articles acquired by purchase, pledge or otherwise. The record and the articles shall at all times during ordinary business hours be subject to inspection by any police officer of said City. Such person shall, in addition to keeping such records, daily deliver to the Chief of Police, upon forms of a type and content which shall be approved by the Chief of Police for that purpose and setting forth a full, true and complete report of all such previously named articles acquired by purchase, pledge or otherwise by such persons during the entire calendar day preceding such report, together with the hour and date of the transaction and a reasonable description and true name of the person from whom such article was so acquired, as accurately as can be obtained by the person making such report. All records and forms shall be legible.

(Amended 2-23-1987 by O-16812 N.S.)

§33.1102 Use of Fictitious Name Prohibited

It shall be unlawful for any person to sign or give a fictitious name or address upon the deposit, sale or pledge of any goods, wares, merchandise or a thing of value, or for use in the report form required to be made by the provisions of this Division or for use in the register required to be kept by other provisions of law. Any such report made, delivered or received pursuant to this Division shall be open only to the inspection of the Police Department of said City, unless ordered exhibited by a court of competent jurisdiction.

(Amended 2-23-1987 by O-16812 N.S.)

§33.1103 Records of Loans

All pawnbrokers shall keep a record of all loans made by them, which shall at all times during ordinary business hours be open to inspection by any police officer of said City. Such record shall contain the names and addresses of all persons to whom loans are made, a reasonable description of such persons, the amounts of money

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loaned, the length of time during which such loan is to continue, and the rate of interest exacted for such loans.

(Amended 2-23-1987 by O-16812 N.S.)

§33.1104 Disposal of Merchandise — Regulations

It shall be unlawful for any pawnbroker, secondhand dealer, or junk dealer to sell or otherwise dispose of any article, merchandise, or thing within thirty (30) days, except to the pledgor, after the same has been received or purchased or to fail to keep such article, merchandise or thing unaltered, as pledged or purchased, in lots separate and apart from other articles, merchandise or things in the place of business of such pawnbroker, secondhand dealer, or junk dealer, for a period of thirty (30) days from the date of pledge or purchase thereof, except upon the approval of the Chief of Police of The City of San Diego. All transactions hereunder shall be conducted only on the licensed premises.

(Amended 2-23-1987 by O-16812 N.S.)

§33.1105 Junk Yard — Operating Rules

It shall be unlawful for any person to carry on, maintain or conduct a junk yard or to deal in secondhand articles in the City of San Diego, unless such business is carried on, maintained or conducted in compliance with the following regulations:

- (a) That such business shall be carried on, maintained or conducted entirely inside an enclosed building or buildings, unless the premises on which such business is carried on, maintained or conducted shall be entirely enclosed by a solid fence or wall constructed according to the requirements of the Building and Zoning Codes of said City.
- (b) That such fence or wall shall be maintained in a neat, substantial, safe condition and shall be painted.
- (c) No sign, picture, transparency, advertisement or mechanical device which is used for the purpose of, or which does advertise or bring to notice any person or persons, or article or articles of merchandise, or any business or profession, or anything that is to be or has been sold, bartered or given away, shall be placed, or caused to be placed or to be maintained, or caused to be maintained, upon the outward face of such fence or wall; except that the business carried on, maintained or conducted within such fenced or walled enclosure may be advertised by use of a space not exceeding six (6) feet in height and fifteen (15) feet in length on each side of such enclosure.

1 PROOF OF SERVICE
2 Hopp v. City of Los Angeles
3 LASC Case No. BC 401887

4 I am employed by the Office of the Los Angeles City Attorney located in the City and County of
5 Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My
6 business address is 200 North Main Street - CHE, 9th Floor, Room 916, California 90012.

7 On January 30, 2009, I served the foregoing documents described as:

8 DEFENDANT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
9 MOTION FOR JUDGMENT ON THE PLEADINGS

10 on the interested parties in this action by placing [] the original [X] a true copy thereof enclosed in a
11 sealed envelope addressed as follows:

12 Richard Hopp
13 POB 3601
14 Van Nuys, CA 91407
15 Tel: 818/902-0532
16 Fax 670-7841

17 [X] MAIL - I caused such envelope to be deposited in the United States mail at Los Angeles,
18 California, with first class postage thereon fully prepaid. I am readily familiar with the business
19 practice for collection and processing of correspondence for mailing. Under that practice, it is
20 deposited with the United States Postal Service on that same day, at Los Angeles, California, in
21 the ordinary course of business. I caused such envelope to be deposited in the mail at Los
22 Angeles, California, with first class postage thereon fully prepaid.

23 [] BY PERSONAL SERVICE - () I delivered by hand, or () I caused to be delivered via
24 messenger service, such envelope to the offices of the addressee with delivery time prior to 5:00
25 p.m. on the date specified above.

26 [] BY OVERNIGHT COURIER - I caused the above-referenced document(s) to be delivered
27 via: [DHL], an overnight courier service, for delivery to the above-addressee(s).

28 [] BY FACSIMILE - I caused the above-referenced document(s) to be transmitted to the offices
of the addressee via facsimile machine, on the date specified above. The facsimile machine I
used was in compliance with Rule 2003(3) and the transmission was reported as complete
without error. Pursuant to Rule 2008(e), I caused a copy of the transmission report to be
properly issued by the transmitting facsimile machine.

[] Federal - I declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.

[X] State - I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Executed on January 30, 2009, at Los Angeles, California.


TERRY LEE