

Ordinance No. _____

AN ORDINANCE TO ADD CHAPTER 28 TO DIVISION 1 OF TITLE 2 LICENSES, BUSINESS REGULATIONS, AND BUSINESS TAXES OF THE COUNTY CODE OF REGULATORY ORDINANCES RELATING TO IMPROVING SAFETY AND LABOR STANDARDS IN COUNTY PARKS

The Board of Supervisors of the County of San Diego ordains as follows:

Chapter 28 is hereby added to Division 1 of Title 2 of the County Code of Regulatory Ordinances to read in its entirety as follows:

CHAPTER 28. IMPROVING SAFETY AND LABOR STANDARDS IN COUNTY PARKS

SECTION 21.2801 FINDINGS AND PURPOSE

Every year, entertainment events vendors employ hundreds of stagehands to build and break down stages, rig lighting and amplification systems, and move heavy-duty equipment at large revenue-generating events on County-owned and leased park property. Large revenue-generating events on County-owned and leased park property can employ well over 100 stagehands each and generate millions of dollars for the County annually. Event producers are permitted to hold roughly twelve such events-known as “higher impact” events on County-owned and leased park property each year.

The County currently requires all electricians, portable power distribution technicians, arena rigging, and theater rigging employees and associated vendors and subcontractors to be certified under the Entertainment Technician Certification Program (ETCP) and the OSHA 10-hour safety training program (OSHA-10). With Assembly Bill 1775, the State of California required either that all department heads/leads have completed the OSHA 30-hour safety training program (OSHA-30) and ETCP, or all stage employees meet the conditions for a skilled and trained workforce.

This ordinance codifies safety standards within the County to align with the standards required of other events in the State of California, establishes minimum labor standards, and strengthens oversight and enforcement for higher impact events held on County-owned and leased park property.

SECTION 21.2802 DEFINITIONS

For purposes of this section, the following definitions apply:

- (a) “*Contract*” means an existing event and reservation agreement between a contracting entity and an entertainment events vendor to set up, operate, or tear down a live event at a public events venue.

ATTACHMENT A

- (b) “*Contracting entity*” means a person that contracts with an entertainment events vendor to set up, operate, or tear down a live event at a County park.
- (c) “*County*” means County of San Diego.
- (d) “*County Park*” means a fully developed and improved land that is open to the public, operated and maintained by the County of San Diego.
- (e) “*Higher Impact Events*” means live music, theater, dance, or cultural productions, or other live productions that involve the temporary setup, operation, or teardown of non-permanent rigging, large portable power distribution systems, or both. The setup, operation, or teardown of non-permanent rigging does not include freight handling or the transportation of heavy equipment.
- (f) “*Entertainment events vendor*” means a private employer that contracts to set up, operate, or tear down a live event and includes any subcontractor employer involved in the event’s setting up, operation, or tearing down.
- (g) “*Entertainment Technician Certification Program (ETCP)*” means the industry and labor nongovernmental program of the Entertainment Services and Technology Association that grants certification to a worker who has demonstrated mastery as an entertainment technician.
- (h) “*Heads of departments*” and “*leads*” means any worker that leads, supervises, or directs one or more workers in that same occupation and is employed in an occupation that may be certified by the Entertainment Technician Certification Program.
- (i) “*Large portable power distribution system*” means a movable system that can distribute power at 100 amps or greater. These systems provide electrical power and can include components such as generators, power panels, and distribution boxes that allow for the safe and effective distribution of electricity to various equipment and lighting setups used during events.
- (j) “*Minimum Wage*” means an hourly minimum rate to be paid to a contracting entity, as defined in section 21.2804 (a).
- (k) “*OLSE*” means the County of San Diego Office of Labor Standards and Enforcement.
- (l) “*Operate*” means to operate effects on an event set, including, but not limited to, lighting, sound, machinery, electrical apparatus, scenery, audiovisual, or rigging.
- (m) “*OSHA-10 course*” means the United States Department of Labor’s Occupational Safety and Health Administration’s 10-hour course on workplace health and safety, the United States Department of Labor’s Occupational Safety and Health Administration’s 10-hour course on workplace health and safety specific to the entertainment and exhibition industries, and the Cal/OSHA-10 10-hour course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.

- (n) “*OSHA-30 course*” means the United States Department of Labor’s Occupational Safety and Health Administration’s 30-hour course on workplace health and safety, the United States Department of Labor’s Occupational Safety and Health Administration’s 30-hour course on workplace health and safety specific to the entertainment and exhibition industries, and the 30-hour course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course.
- (o) “*Retaliate*” means any threatening, intimidating, or harassing conduct or adverse employment action against an employee, subcontractor, or subcontractors’ employee for engaging in conduct specified in this section.
- (p) “*Supervisors*” means any employee, employed in an occupation that may be certified by the Entertainment Technician Certification Program (ETCP), who leads, supervises, or directs one or more employees in that same occupation.

SECTION 21.2803 ENTERTAINMENT EVENT VENDOR REQUIREMENTS

- (a) A contracting entity shall use a written contract for production of a higher impact event.
- (b) An entertainment events vendor shall confirm both of the following before any work on a higher impact event held on County-owned or leased park property begins:
 - (1) any employees of an entertainment events vendor, including any subcontractors’ employees, involved in the setup, operation, or teardown of non-permanent rigging, large portable power distribution systems, or both, completed the OSHA-10 course; and
 - (2) Supervisors of employees described in subsection (b)(1), including any subcontractors’ supervisors, completed the OSHA-30 course, and are certified through the Entertainment Technician Certification Program for the work performed within the applicable trade.
- (c) A contracting entity shall require that an entertainment events vendor provide to the contracting entity both of the following before any work on events held on County-owned and leased park property:
 - (1) the names of all employees described in subsection (b); and
 - (2) the course or certification the employee described in subsection (b) completed and the date of completion or certification.
- (d) An entertainment events vendor shall maintain a written record of the information provided under subsection (c) for a minimum of two years. The entertainment events vendor’s failure to retain a written record, or the entertainment events vendor’s failure to allow OLSE

reasonable access to the written record, creates a rebuttable presumption that the entertainment events vendor has violated subsection (d).

- (e) The requirements of this section shall not apply to any County employee while in the performance of their duties.
- (f) An entertainment events vendor shall post a notice informing employees involved in the setup, operation, or teardown of a high impact event on County-owned or leased park property of the requirements and retaliation prohibitions contained herein in a conspicuous place where any employee, or subcontractors' employee, is involved in the setup, operation, or teardown of a high impact event on County-owned or leased park property; or provide copies of such notice to all employees.

SECTION 21.2804 ENTERTAINMENT VENDOR HIRING REQUIREMENTS

- (a) Entertainment events vendors must ensure that all employees, including any subcontractors' employees, involved in the setup, operation, or teardown of non-permanent rigging, large portable power distribution systems, or both and the supervisors of such employees are compensated no less than the minimum wage rate of \$25.00 for each hour worked at a higher impact event as defined herein.
 - (1) Starting January 1, 2027, and each year thereafter, each time the California minimum wage is increased, the Minimum Wage rate set forth herein shall be increased by an equal percentage, meaning the County shall increase the Minimum Wage rate using the same percentage increase utilized for the California Minimum Wage increase. The adjusted Minimum Wage will become effective on the same date as the increase for the California minimum wage takes effect. The adjusted Minimum Wage will be noticed and posted as set forth in this Division.
- (b) Entertainment events vendors must provide employees identified in subsection (a) health and retirement benefits through a portable benefits plan covered by the Employee Retirement Income Security Act (ERISA) or by paying fringe benefits at the prevailing health and welfare fringe rate under the Federal Service Contract Act.
- (c) Entertainment events vendors shall make a good faith effort to hire San Diego County residents to perform setup, operation, and/or teardown of non-permanent rigging, large portable power distribution systems, or both and to serve as the supervisors of such employees at high impact events on County-owned or leased park property .

SECTION 21.2805 STRICTER SAFETY STANDARDS AND TRAINING

- (a) Nothing in this Section prevents or limits an employer, contracting entity, or entertainment events vendor from adopting stricter safety standards than those detailed herein.

- (b) Nothing in this Section relieves an employer from conducting any other training required by law, including Title 8 of the California Code of Regulations, and any other applicable occupational safety and health laws or regulation.

SECTION 21.2806 RETALIATION PROHIBITED

A contracting entity or entertainment events vendor shall not retaliate against an employee, subcontractor, or subcontractors' employee, for informing any person of the requirements in this Section, or reporting, cooperating with an investigation regarding, communicating with any person about, or participating in any administrative or judicial action regarding a violation or alleged violation of this Section.

SECTION 21.2807 ENFORCEMENT

- (a) OLSE is authorized to develop policies and procedures, in conformity with the provisions of this chapter, to enforce this Section.
- (b) OLSE is authorized to take appropriate steps to enforce this chapter, including conducting investigations of possible violations of this Section, order temporary suspension of the setup, operation, or teardown of non-permanent rigging, large portable power distribution systems, or both of higher impact events, and/or recommend to the Department of Parks and Recreation to suspend or revoke permits pursuant to Section 21 of the County Code of Regulatory Ordinances.

SECTION 21.2808 SEVERABILITY.

If any provision of Sections 21.2801 through 21.2808 or the application thereof is judged invalid, the invalidity shall not affect other provisions or applications of the sections that can be given effect without the invalid provision or application, and to this end any provision judged invalid is declared severable.

This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in The Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
DAMON BROWN, COUNTY COUNSEL

BY: Amanda Johnston, Supervisory Deputy County Counsel