

[Police Code - Regulating Mechanical Amusement Devices and Arcades]

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Ordinance amending the Police Code to reduce restrictions on the location of, and lessen permitting requirements for, mechanical amusement devices and arcades, and remove obsolete Code provisions; and making environmental findings.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 140776 and is incorporated herein by reference.

(b) It is hereby declared to be City policy to regulate reasonable and orderly public access for patrons wishing to play mechanical amusement devices, including video game machines, while at the same time protecting the health, safety and welfare of the general public.

Section 2. Article 15 of the Police Code is hereby amended by revising existing Sections 1036 through 1036.34 (including deleting existing Sections 1036.6, 1036.7, 1036.11,

1 1036.23, 1036.26, 1036.29, 1036.30, 1036.31-1, 1036.33, 1036.34, and 1036.35, and re-
2 numbering the remaining sections as Sections 1036 through 1036.25), to read as follows:

3 **SEC. 1036. DEFINITIONS.**

4 As used in Sections 1036 through 1036.24, inclusive~~this Article~~, the following words shall
5 have the following respective meanings:

6 "Accessory Ancillary Use" shall mean the operation of ~~one~~1 to 10 mechanical
7 amusement devices on premises wherein another business operates.

8 "Arcade" shall mean any premises where 11 or more mechanical amusement devices
9 are operated.

10 "Bar" shall mean a retail use which provides on-site alcoholic beverage sales for drinking on
11 the premises where no person under 21 years of age is admitted and which has a California
12 Department of Alcoholic Beverage Control license type 42, 48, or 61.

13 "City" shall mean the City and County of San Francisco.

14 "Director" shall mean the Executive Director of the Entertainment Commission or individual(s)
15 designated by the Director to act on his or her behalf.

16 "Mechanical amusement device" shall mean any machine or device, with or without a
17 video screen or display, which, upon the insertion of a coin, slug or token in any slot or
18 receptacle attached to said machine or connected therewith, operates or which may be
19 operated for use as a game, contest or amusement or which may be used for any such game,
20 contest or amusement and which does not contain a pay-off device for the return of slugs,
21 money, coins, checks, tokens or merchandise. A mechanical amusement device shall not include
22 any game or device that is unlawful under the Municipal Code or under Chapter 10 of Title 9 of the
23 California Penal Code.

24 "Owner or operator of a mechanical amusement device" shall mean:
25

1 (a) Any owner of such mechanical amusement device who operates or permits
2 the same to be played or operated in his place of business or in any commercial place under
3 his control or who installs or maintains the same in any commercial place where the same can
4 be played or operated by persons in or about said place;

5 (b) The persons in whose place of business any such mechanical amusement
6 device is placed for the use, amusement, patronage or recreation of the public or of persons
7 in or about said place.

8 "Permittee." The Person to whom a permit has been issued under Sections 1036 through
9 1036.24, inclusive.

10 "Person" shall mean any individual, corporation, association, syndicate, joint stock
11 company, partnership, club, ~~Massachusetts business or common law trust~~, society, or any other
12 entity, or individual.

13 "Public retail floor space" shall mean that portion of the premises to which the public is
14 allowed access.

15 "Street" shall mean any street, alley, way, boulevard, or road, either public or private,
16 that is used or to be used for ingress or egress.

17 ~~"Video game machine" shall mean any mechanical amusement device, as defined in this~~
18 ~~Section, which is characterized by the use of cathode ray tube display.~~

19 **SEC. 1036.1. REQUIREMENTS FOR MACHINES.**

20 (a) Every mechanical amusement device shall have a seal or tag permanently
21 attached thereto showing ~~the serial number of the mechanical amusement device, a label or decal~~
22 ~~stating~~ the name, address and telephone number of the owner of the mechanical amusement
23 device, and, in addition thereto, if wired for electricity, ~~a label indicating the name and address of~~
24 ~~the manufacturer and~~ the voltage and current necessary for the proper operation of said
25 mechanical amusement device.

1 ~~Each portable mechanical amusement device wired for electricity shall be equipped with not~~
2 ~~more than six feet of electric cord of a type approved by the Department of Electricity, and shall be~~
3 ~~connected to a convenience plug receptacle adjacent to said mechanical amusement device.~~

4 **(b)** Where it is necessary to install electric wiring to said mechanical amusement
5 device location, said wiring shall be installed by a registered electrical contractor in
6 accordance with the provisions of the San Francisco Electrical Code Article 1, Chapter III, Part II,
7 ~~of the San Francisco Municipal Code.~~

8 **SEC. 1036.2. ~~UNLAWFUL ACTS~~ – PERMIT REQUIREMENTS AND EXCEPTIONS.**

9 (a) Nothing in Sections 1036 to 1036.~~3424~~, inclusive, shall be construed to authorize
10 or permit either the use or operation of any gambling device whatsoever, including games of
11 chance prohibited under Article 3, or of any mechanism that has been judicially determined to be
12 a gambling device in any way contrary to law, or to authorize or permit any other conduct
13 otherwise unlawful. Nothing in this Section 1036.2 shall preclude an award of a free game or
14 games upon a mechanical amusement device.

15 (b) Permit Required.

16 **(1)** It shall be unlawful for any person to install, operate or maintain to be
17 operated ~~any mechanical amusement device~~ in the City ~~and County of San Francisco~~ the following
18 without first having obtained a permit in writing to do so from the Entertainment Commission:

19 (A) an Arcade; or

20 (B) ~~25~~ to 10 mechanical amusement devices as an Ancillary Use in a Bar.

21 Accordingly, an Ancillary Use consisting of either ~~one~~ up to four mechanical
22 amusement devices in a Bar or up to 10 mechanical amusement devices operated on a premises that is
23 not a Bar does not require a permit.

1 (2) It shall be unlawful for any person to install, operate or maintain to be operated an
2 Arcade or Ancillary Use for which a permit has been granted (A) after the permit has been revoked or
3 is otherwise invalid or (B) for any period of time during which the permit has been suspended.

4 (3) Any premises where a mechanical amusement device permit is sought must conform
5 to all City ordinances, including but not limited to health, safety, zoning, fire and building ordinances.

6 (c) The provisions of Sections 1036 to 1036.24~~34~~, inclusive, shall not be construed to
7 apply to mechanical amusement devices installed, operated or maintained in private
8 residences or businesses intended for free use solely by the residents or employees at those
9 locations.

10 (d) The provisions of Sections 1036 to 1036.24, inclusive, shall not apply to (1) any machine or
11 mechanical amusement device which, in return for the coin deposited in said mechanical amusement
12 device, will deliver the equivalent value of said coin in merchandise; provided, that no prize, reward,
13 bonus or other thing of value is delivered with said merchandise, or (2) coin-operated billiard, pool or
14 combination tables, which are subject to the licensing provisions of this Code in accordance with
15 Sections 1037 to 1037.3, inclusive, and Sections 510 and 510.1.

16 (e) The provisions of Sections 1036 to 1036.24, inclusive, shall not apply to the Recreation and
17 Park Commission, which shall have exclusive jurisdiction to determine whether and under what
18 conditions mechanical amusement devices may be placed on property under its jurisdiction.

19 **SEC. 1036.3. APPLICATION FOR PERMIT.**

20 Application for ~~said~~ a mechanical amusement device permit required under Subsection (b) of
21 Section 1036.2 shall be made to the Entertainment Commission on forms provided by the
22 Entertainment Commission, shall be signed by the applicant and be accompanied by payment
23 of the filing fee set forth in Section 2.26 and shall contain the following information in addition to
24 whatever additional information is deemed necessary by the Director or the Entertainment
25 Commission:

1 (a) Name of the applicant.

2 (b) The name and address of any person, other than the applicant, who holds any
3 right, title or interest in or to each mechanical amusement device for which a permit is sought,
4 and in those instances where such person is other than an individual, there shall be filed with
5 the Entertainment Commission and kept available for public inspection, a statement showing,
6 in the case of a partnership, the names and addresses of the partners; in the case of a
7 corporation, the names and addresses of the majority stockholder(s) and directors and in the
8 case of a business trust, the names of the trustor, trustee, and beneficiary or beneficiaries.

9 (c) ~~Place~~ Where said mechanical amusement device is to be placed, maintained to be
10 operated or operated; and, if said mechanical amusement device or devices are to be placed,
11 maintained to be operated or operated in connection with any other business or calling, the
12 character of said business or calling.

13 ~~(d) A complete description of the type of the mechanical amusement device and the manner in~~
14 ~~which it is to be placed, maintained to be operated or operated.~~

15 ~~(d)(e)~~ The ~~total~~ maximum number of mechanical amusement devices to be placed,
16 maintained to be operated or operated at the location for which the permit is requested.

17 **SEC. 1036.4. NOTICE OF HEARING.**

18 (a) When an application is filed for a new permit or for an increase in the number of
19 mechanical amusement devices pursuant to Section 1036.3 ~~of this Article~~, the Director
20 ~~Entertainment Commission~~ shall fix a time and place for a public hearing thereon: and the
21 Entertainment Commission shall hold the hearing and determine whether to grant or deny the permit
22 within 45 City business days of the date that the applicant has submitted a complete application under
23 Section 1036.3, except that this 45-day period shall be extended for such period or periods of time that
24 apply under the following circumstances:

1 (1) If the Entertainment Commission finds that an extension of time is necessary to
2 obtain additional information for its review of the application under the standards set forth in Section
3 1036.5, the time period shall be extended for an additional amount of time as the Commission
4 determines appropriate, up to 15 additional days.

5 (2) Upon the applicant's request, the Entertainment Commission shall continue the
6 hearing for an additional period of time to allow the applicant an opportunity to comply with the
7 requirements of Sections 1036 through 1036.24.

8 (3) If the applicant fails to post or maintain notice of the hearing as required by
9 Subsection (b) of this Section 1036.4, the Director shall have the hearing before the Entertainment
10 Commission continued for such period or periods of time that the Director determines necessary for the
11 applicant to comply with the posting requirement, in which case the time period is extended for that
12 additional period or periods of time.

13 (4) If the Director finds that the Entertainment Commission is unable to meet during the
14 45-day time period or any permitted time extension due to emergency circumstances, the time period
15 shall be extended until the Commission is able to meet; the Commission shall consider the matter at the
16 first meeting that it conducts following such circumstances.

17 (b) Not less than 10 days before the date of such hearing, the ~~Entertainment Commission~~
18 applicant shall cause to be posted a notice of such hearing in a conspicuous place on the
19 property in which or on which the mechanical amusement devices are to be operated. Such
20 notice shall set forth the ~~specific~~ type of mechanical amusement devices and the maximum
21 number thereof which the applicant intends to operate. The ~~posting shall be the exclusive~~
22 responsibility of the ~~Entertainment Commission, and the~~ applicant shall maintain said notice as
23 posted until after the date of the hearing.

24 (c) If the Commission does not grant or deny the mechanical amusement device permit within
25 the time required by Subsection (a) of this Section 1036.4, including any extensions of time provided for

1 in Subsections (a)(1)-(4), the permit sought by the applicant shall be deemed granted, conditioned on
2 the requirements that the Permittee obtain all required permits from other City departments within nine
3 months in accordance with Subsection (g) of Section 1036.5 and comply with all the requirements of
4 Sections 1036 through 1036.24.

5 **SEC. 1036.5. INVESTIGATIONS.-DETERMINATION OF APPLICATION FOR A**
6 **MECHANICAL AMUSEMENT DEVICE PERMIT.**

7 (a) Upon receipt of ~~said~~ an application for a mechanical amusement device permit, the
8 Director Entertainment Commission shall ~~cause to be investigated the statements as set forth in the~~
9 ~~application~~ promptly transmit a copy of the application, including notice of the hearing date, to the
10 Chief of Police or the Chief's designee, the Director of the Planning Department or the Director's
11 designee, and, for those applications for permits to maintain for operation mechanical amusement
12 devices which are wired for electricity, the Director of the Department of Building Inspection or the
13 Director's designee.

14 (b) If the permit applicant has not obtained all permits required for the operation of the
15 mechanical amusement device(s) from other City departments by the date of the hearing on the
16 application, the Entertainment Commission may grant a conditional permit pending the issuance of the
17 other required City permits; provided, however, the Commission shall take this action only if sufficient
18 information has been provided to allow for adequate evaluation of the application and if grounds for
19 denial, as set forth in Subsection (c), are not present. Any permit conditionally granted by the
20 Entertainment Commission under this Subsection (b) may be appealed to the Board of Appeals. Any
21 such appeal shall be filed within 10 days of the decision of the Entertainment Commission's
22 conditionally granting the permit. No Person may operate an Arcade or Ancillary Use for which a
23 permit has been conditionally granted unless and until the Person has obtained all permits and
24 authorizations required from other City departments.

1 (c) The Entertainment Commission shall grant or conditionally grant a permit for an Arcade or
2 Ancillary Use unless it finds that:

3 (1) The premises or the proposed operation of the Arcade or Ancillary Use does not
4 comply with the health, zoning, fire and safety requirements of the laws of the State of California or
5 City ordinances applicable to the Business;

6 (2) The building, structure, equipment or location of the proposed Arcade or Ancillary
7 Use cannot adequately accommodate the type and volume of pedestrian traffic anticipated;

8 (3) The premises or the proposed operation of the Arcade or Ancillary Use would
9 substantially interfere with the public health, safety and welfare or the peaceful enjoyment of
10 neighboring property;

11 (4) If there is an unresolved citation applicable to the premises that has been issued by
12 a City department, the Entertainment Commission shall not grant the permit without documented
13 authorization from the department that issued the citation; or

14 (5) There has been a previous denial of a permit application or previous suspension or
15 revocation of a mechanical amusement device permit for the same permit applicant within the last 12
16 months, or the specific circumstances surrounding a previous denial, suspension or revocation from
17 more than one year ago warrant denial.

18 (d) If the Chief of Police or the Chief's designee, or the Director of the Department of Building
19 Inspection or the Director's designee, in person at the Entertainment Commission hearing on the
20 permit application or in writing prior to the hearing, objects to the granting of the permit on the basis
21 that the Commission should make one or more of the findings stated in Subsections (c)(1)-(5) above, the
22 Commission may not issue the permit without specifically addressing the objection in writing or on the
23 record, at a Commission meeting, and explaining specifically why the objection does not warrant the
24 finding.

1 (e) The Director shall forward to the Director of the Department of Building Inspection written
2 notice of the conditional granting or denial of said permit if said mechanical amusement device is
3 wired for electricity. The Department of Building Inspection shall promptly respond to requests from
4 permit applicants for inspection of mechanical amusement devices wired for electricity.

5 (f) When the Entertainment Commission grants or conditionally grants a mechanical
6 amusement device permit, the Commission may impose additional reasonable time, place and manner
7 conditions on the permit. In considering whether to impose said conditions, the Commission shall
8 consider where relevant the circumstances surrounding any previous denial of a permit application or
9 previous suspension or revocation of a permit for the same permit applicant or Permittee.

10 (g) If an applicant has been conditionally granted a permit but has not obtained all of the
11 permits required from other City departments within nine months from the date that the Entertainment
12 Commission conditionally granted the permit, the conditionally granted permit shall expire by
13 operation of law and be void. If, during the nine-month period, the Director of the Department of
14 Building Inspection objects to the application for a mechanical amusement device permit on the
15 grounds that the permit does not comply with the San Francisco Building Code or Electrical Code , the
16 applicant shall have the opportunity of correcting such conditions as have been disapproved and if
17 such conditions have been corrected to the satisfaction of the Director of the Department of Building
18 Inspection, the permit may be issued.

19 ~~Any permit to maintain for operation mechanical amusement devices which are wired for~~
20 ~~electricity must have been approved by the Department of Public Works prior to its final issuance by~~
21 ~~the Entertainment Commission. The Director of Public Works shall determine whether the ordinances~~
22 ~~of the City and County of San Francisco and the rules and regulations of said department pertaining to~~
23 ~~such mechanical amusement devices are complied with.~~

24 ~~The Entertainment Commission may grant a permit for the operation of a mechanical~~
25 ~~amusement device conditional upon approval of the Director of the Department of Public Works.~~

1 ~~—Any permit for operation of a mechanical amusement device granted by the Entertainment~~
2 ~~Commission conditionally upon the approval of the Director of the Department of Public Works may be~~
3 ~~appealed to the Board of Permit Appeals. Such appeal must be filed within 10 days of the final decision~~
4 ~~of the Entertainment Commission issuing the conditional permit.~~

5 ~~—Any permit granted by the Entertainment Commission conditionally upon approval of the~~
6 ~~Director of the Department of Public Works shall expire within six months from the date of the final~~
7 ~~decision of the Entertainment Commission if the Director's approval is not granted. The Entertainment~~
8 ~~Commission shall cause to be forwarded to the Director of Public Works for investigation those~~
9 ~~applications for permits to maintain for operation mechanical amusement devices which are wired for~~
10 ~~electricity.~~

11 **~~SEC. 1036.6. DISAPPROVAL OF APPLICATION—CONDITIONS CORRECTED—APPROVAL.~~**

12 ~~In the event that the application for a mechanical amusement device permit is disapproved by~~
13 ~~the Director of Public Works, the Entertainment Commission shall notify the applicant for said permit~~
14 ~~of such fact. Upon receiving said notice from the Entertainment Commission, the applicant shall have~~
15 ~~the opportunity of correcting such conditions as have been disapproved. This correction shall be made~~
16 ~~within 10 days after receipt of said notice; and, if such conditions have been corrected to the~~
17 ~~satisfaction of the Director of Public Works, the permit may be issued.~~

18 **~~SEC. 1036.7. ISSUANCE OR DENIAL OF PERMIT.~~**

19 ~~If the Entertainment Commission approves the granting of said permit he may issue a permit to~~
20 ~~said applicant, which permit shall be serially numbered and the renewal or continuance thereof shall~~
21 ~~be governed by the provisions of Section 23, Article I, Part III, of the San Francisco Municipal Code;~~
22 ~~provided, if said mechanical amusement device is wired for electricity, said application for such permit~~
23 ~~shall first be approved by the Director of Public Works. The Entertainment Commission may, in the~~
24 ~~exercise of sound discretion, deny said permit.~~

1 ~~The Entertainment Commission shall cause to be forwarded to the Director of Public Works~~
2 ~~written notice of his granting or denial of said permit if said mechanical amusement device is wired for~~
3 ~~electricity.~~

4 **SEC. 1036.68. ~~CERTAIN MECHANICAL AMUSEMENT~~ GAMBLING DEVICES**
5 **PROHIBITED.**

6 No permit shall be issued to any applicant relating to any mechanical amusement
7 device, ~~which for each coin, slug or token inserted makes available to the player, for actual play, only~~
8 ~~one ball or marble, nor shall any permit be issued to any applicant relating to any mechanical~~
9 ~~amusement device which permits or that is designed or adapted to the insertion of more than one~~
10 ~~coin, slug or token, for the playing of a single complete game, or which permits or is adapted to the~~
11 ~~insertion of additional coins, slugs or tokens during the playing of or before the completion of the game~~
12 ~~for which the original coin, slug or token was inserted in said mechanical amusement device. Nothing~~
13 ~~in this Section is intended to prohibit the insertion of more than one coin for the sole purpose of~~
14 ~~reaching the amount or price required to play the game, and allow the insertion of additional coins,~~
15 ~~slugs or tokens in order to which does not change the odds, grant bonuses, or otherwise affect~~
16 the method of play or the outcome of the game or constitute, result in or enable illegal gambling.
17 The Chief of Police or his or her designee may impound any mechanical amusement device being used
18 in violation of this Section 1036.6; and, if any court of competent jurisdiction shall determine that said
19 mechanical amusement device, or the use or operation thereof, violates or has violated any of said
20 laws, ordinances, rules or regulations, said mechanical amusement device shall be forfeited to the City.

21 **SEC. 1036.79. PERMIT FORWARDED TO TAX COLLECTOR, LICENSE FEES.**

22 When any permit is issued under the provisions of ~~this Article~~ Sections 1036 through
23 1036.24, inclusive, the Entertainment Commission shall cause such permit to be forwarded to
24 the office of the Tax Collector for delivery to the Permittee upon the payment of the license
25 fees.

1 **SEC. 1036.~~810~~. LICENSE FEES.**

2 Every holder of a mechanical amusement device permit shall pay the Tax Collector for
3 each Arcade or Ancillary Use ~~separate mechanical amusement device which~~ that the permit
4 authorizes, an annual license fee, on or before March 31, in accordance with the provisions of
5 Section 76.1 of the Business and Tax Regulations Code.

6 ~~**SEC. 1036.11. ELECTRICAL INSPECTION COSTS.**~~

7 ~~In calculating the fees earned by the Electrical Inspection division of the Department of Public
8 Works pursuant to the provisions of Section 24 of the Charter of the City and County of San Francisco
9 a percentage of the license fees derived pursuant to Section 1036.10 of this Article shall be credited to
10 said division pursuant to the annual determination by the Controller as provided by Section 2.21 of this
11 Code.~~

12 **SEC. 1036.~~912~~. CONTENTS OF LICENSES.**

13 The Tax Collector shall issue a license for such Arcade or Ancillary Use ~~mechanical~~
14 ~~amusement device~~ for which the fee was paid, showing thereon the:

15 (a) Name of the Permittee;

16 (b) Address at which the mechanical amusement device(s) is or are to be operated or
17 maintained to be operated;

18 (c) The maximum number of such mechanical amusement devices ~~and the type or kind of~~
19 ~~game, contest or amusement played thereon; and~~

20 (d) The Serial number of the permit and the expiration date of the license.

21 **SEC. 1036.~~1013~~. POSTING LICENSE IN PREMISES.**

22 The license shall be permanently and conspicuously posted at the location of the
23 machines in the premises wherein said mechanical amusement devices are to be operated or
24 maintained to be operated, and shall not be removed from said location during the period for
25 which said license was issued.

1 **SEC. 1036.~~1114~~. REMOVAL OR TRANSFER OF LICENSE TO OTHER PREMISES**
2 **PROHIBITED.**

3 Nothing in Sections 1036 to 1036.~~2434~~, inclusive, shall permit the removing or
4 transferring of the license to any other premises other than those for which the license was
5 originally issued.

6 **SEC. 1036.~~1215~~. NO PRORATING OR REFUNDING OF LICENSE FEE.**

7 License fees paid under the provisions of Sections 1036.~~8-9~~ shall not be prorated or
8 refunded.

9 **SEC. 1036.~~1316~~. LICENSE FEE PAID BY OWNER OR OPERATOR.**

10 When any one of the persons mentioned in subdivisions (a) and (b) under the definition
11 of the term "Owner and Operator of a Mechanical Amusement Device" in Section 1036 obtains
12 a permit and pays a license fee for the maintenance or operation of said mechanical
13 amusement device, the said permit and license fee shall cover each of the persons mentioned
14 in said subdivisions (a) and (b).

15 **SEC. 1036.~~1417~~. RENEWAL OF LICENSE.**

16 Licenses for mechanical amusement devices shall be renewed as set forth in Sections
17 2.8 and 2.10 of this Code.

18 **SEC. 1036.~~1518~~. PROCEDURE WHERE NO CURRENT PERMIT OR LICENSE.**

19 (a) If any Arcade or Ancillary Use requiring a permit ~~mechanical amusement device~~ is placed,
20 installed, operated or maintained to be operated without a current ~~and valid permit license~~, the
21 Director may impose administrative penalties and seek civil penalties against the owner or operator of
22 the mechanical amusement device(s) in accordance with the procedures set forth in Section 1060.25.
23 Chief of Police shall immediately cause same to be impounded and shall not release said mechanical
24 amusement device until a penalty equal to the filing fee for mechanical amusement devices currently in
25

1 ~~effect plus \$25 for each mechanical amusement device impounded has been paid to the Police~~
2 ~~Department.~~

3 ~~Mechanical amusement devices impounded under the provisions of this Section shall be held for~~
4 ~~a period of 90 days and if not redeemed within such period shall be destroyed or otherwise disposed by~~
5 ~~the Chief of Police. Mechanical amusement devices impounded under the provisions of this Section and~~
6 ~~subsequently released as set forth in this Section shall not be placed, operated or maintained to be~~
7 ~~operated without obtaining a mechanical amusement device permit and paying the current license fee.~~

8 (b) The Entertainment Commission may suspend or revoke any permit issued under Section
9 1036.5 if the Permittee has an expired license and/or has failed to pay the annual license fee to the Tax
10 Collector required under Section 1036.8.

11 (c) The remedies specified in this Section 1036.15 shall not preclude any other remedies
12 available under state or local law.

13 **SEC. 1036.1619. SUSPENSION, REVOCATION OR REINSTATEMENT OF A PERMIT,**
14 **PROCEDURE FOR.**

15 ~~—When the Entertainment Commission shall determine that the permittee or any of the~~
16 ~~permittee's servants, agents or employees, in the use, operation or maintenance of any such mechanical~~
17 ~~amusement device or in the use, operation or maintenance of the premises is violating or attempting to~~
18 ~~violate any law of the State of California or any ordinance of the City and County of San Francisco or~~
19 ~~the rules and regulations of any department thereof concerned or that the permittee has failed to take~~
20 ~~adequate security measures to prevent patrons, on or about the premises, from violating any of the~~
21 ~~above laws; or, if in the opinion of the Entertainment Commission, it is deemed necessary for the~~
22 ~~protection of the health, safety and welfare of the public, the Entertainment Commission, after written~~
23 ~~notice to the permittee, shall have the power to suspend and, after due and proper hearing, shall have~~
24 ~~the power to revoke, any permit issued under the provisions of Sections 1036 to 1036.34, inclusive.~~

1 Mechanical amusement device permits may be suspended or revoked by the Entertainment
2 Commission and the Director in accordance with the standards and procedures set forth in Sections
3 1060.20 through 1060.20.4, inclusive. The Entertainment Commission shall cause to be
4 forwarded to the Tax Collector, and, if said mechanical amusement device is wired for
5 electricity, to the Director of the Department of Building Inspection ~~Public Works~~, written notice of
6 any revocation, suspension or reinstatement of any permit herein provided for.

7 **SEC. 1036.1720. RULES AND REGULATIONS ~~TO BE ADOPTED.~~**

8 The ~~Chief of Police,~~ Entertainment Commission ~~and the Director of Public Works,~~ after
9 public hearing thereon, ~~are authorized to may~~ adopt, promulgate and enforce such rules and
10 regulations regarding mechanical amusement devices as will enable the Police Department,
11 Entertainment Commission and the Department of Building Inspection ~~Public Works~~ to enforce
12 and carry out the meaning and intent of Sections 1036 to 1036.2434, inclusive.

13 **SEC. 1036.1821. ASCERTAINMENT OF COMPLIANCE WITH ALL LAWS, ETC. –**
14 **INSPECTION THEREFOR.**

15 It shall be the duty of the Entertainment Commission ~~Chief of Police~~ to ascertain that all
16 laws of the State of California, the provisions of Sections 1036 to 1036.2434, inclusive, all City
17 ordinances ~~of the City and County of San Francisco,~~ and the rules and regulations of any
18 departments thereof ~~concerned,~~ pertaining to mechanical amusement devices are strictly
19 complied with. ~~and~~ For that purpose, the owner or operator of an Arcade or Ancillary Use shall
20 provide representatives of the Entertainment Commission and the Police Department, and, if said
21 mechanical amusement device is wired for electricity, the representatives of the Department
22 of Building Inspection, ~~Public Works,~~ shall access ~~have access~~ to inspect any mechanical
23 amusement device during any time mutually agreed upon by the City and the owner or operator or, if
24 such time cannot be agreed upon, during any hours that the business open to the public ~~at any and all~~

1 *times, and the same shall be inspected by each of said departments as often as may be deemed*
2 *necessary.*

3 **SEC. 1036.1922. WHEN DEEMED A PUBLIC NUISANCE – PROCEDURE THEREON.**

4 Any mechanical amusement device operated or maintained to be operated in violation
5 of any law of the State of California or of Sections 1036 to 1036.2434, inclusive, or any *City*
6 ordinances *of the City and County of San Francisco* or the rules and regulations of any state or
7 municipal departments thereof *concerned* shall be deemed to be a public nuisance, and any
8 such mechanical amusement device so operated or maintained to be operated *shall may* be
9 impounded by the Chief of Police *or his or her designee*; and, if any court of competent
10 jurisdiction shall determine that said mechanical amusement device, or the use or operation
11 thereof, violates or has violated any of said laws, ordinances, rules or regulations, said
12 mechanical amusement device shall be *forfeited to the City confiscated by said Chief of Police;*
13 *but, if said mechanical amusement device is one which may be legally operated under the provisions of*
14 *Sections 1036 to 1036.34, inclusive, of this Article and is seized for the failure of the owner or operator*
15 *thereof to obtain the necessary permit or to pay the necessary license fee for the maintenance or*
16 *operation of said mechanical amusement device, said mechanical amusement device shall be dealt with*
17 *as provided in Section 1036.18 of this Article.*

18 **~~SEC. 1036.23. MACHINES EXCEPTED FROM PROVISION HEREOF.~~**

19 *The provisions of Sections 1036 to 1036.34, inclusive, shall not apply to any machine or*
20 *mechanical amusement device which, in return for the coin deposited in said mechanical amusement*
21 *device, will deliver the equivalent value of said coin in merchandise; provided, that no prize, reward,*
22 *bonus or other thing of value is delivered with said merchandise.*

23 **SEC. 1036.2024. PENALTIES.**

24 *Violations of Sections 1036 through 1036.24, inclusive, shall be subject to the provisions for*
25 *criminal, administrative, civil penalties set forth in Section 1060.25, in addition to the permit*

1 ~~suspension and revocation provisions set forth in Section 1036.16. Any person who violates~~ any
2 of the provisions of Sections 1036 to 1036.2434, inclusive, ~~more than once or who violates~~
3 ~~Section 1036.6, shall may be guilty of a misdemeanor and, in addition to such other penalties as are~~
4 ~~provided by law, shall have his permit or permits revoked by the Entertainment Commission and shall~~
5 ~~be precluded from procuring any further permits for a mechanical amusement device. When, in~~
6 ~~the opinion of the Entertainment Commission, any mechanical amusement device is being used or~~
7 ~~operated in violation of any section of any article relating to the operation of mechanical amusement~~
8 ~~devices, the Entertainment Commission shall in its discretion have the power to revoke the permit for~~
9 ~~such mechanical amusement device. Any person who knowingly and willingly furnishes a mechanical~~
10 ~~amusement device to any permittee, which device violates any of the provisions of Sections 1036 to~~
11 ~~1036.34, inclusive, of this Article shall henceforth in the discretion of the Entertainment Commission be~~
12 ~~precluded from furnishing any mechanical amusement device or devices to any permittee in the City~~
13 ~~and County of San Francisco.~~

14 **SEC. 1036.2125. PERMIT AND LICENSE REQUIRED NOTWITHSTANDING ANY OTHER**
15 **PROVISION OF CODE.**

16 The issuance of a permit or license under the provisions of Sections 1036 to
17 1036.2434, inclusive, shall not exempt the permittee or licensee ~~, notwithstanding any section of~~
18 ~~the San Francisco Municipal Code or any section of any ordinance of the City and County of San~~
19 ~~Francisco making any section or sections thereof inapplicable, from the any other~~ provisions of the
20 San Francisco Municipal Code or any City ordinance or ordinances ~~of the City and County of San~~
21 ~~Francisco~~ requiring a permit or license.

22 **~~SEC. 1036.26. PARTIAL REPEAL.~~**

23 ~~Any and all ordinances, or parts thereof, in conflict with the provisions of Sections 1036 to~~
24 ~~1036.34, inclusive, are hereby repealed but only to such extent as conflict may exist.~~

25 **SEC. 1036.2228. SAVING CLAUSE – NONWAIVER OF DEBTS DUE AND UNPAID.**

1 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of
2 Sections 1036 to 1036.2434, inclusive, is for any reason held to be *invalid or unconstitutional by*
3 *a decision of any court of competent jurisdiction unconstitutional*, such decision~~s~~ shall not affect the
4 validity of the remaining portions of Sections 1036 to 1036.2434, inclusive. The Board of
5 Supervisors hereby declares that it would have ~~passed~~ *enacted* Sections 1036 to 1036.2434,
6 inclusive, and each and every section, subsection, ~~subdivision, paragraph,~~ sentence, clause, ~~and~~
7 phrase, and word not declared invalid or unconstitutional without regard to whether any other portion
8 of said sections would be subsequently declared invalid or unconstitutional. thereof, irrespective of the
9 fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or
10 phrases be declared unconstitutional.

11 The enactment of Sections 1036 to 1036.2434, inclusive, shall not in any manner be
12 construed as a waiver of any license or permit fees or any other fees or money due and
13 unpaid under the provisions of any section of the ~~San Francisco~~ Municipal Code or any City
14 ordinance ~~of the City and County of San Francisco.~~

15 **~~SEC. 1036.29. BILLIARD AND POOL TABLES EXCEPTED.~~**

16 ~~Sections 1036 through 1036.34, inclusive, of this Code shall not apply to coin-operated billiard,~~
17 ~~pool or combination tables. All such tables are subject to the licensing provisions of this Code in~~
18 ~~accordance with Sections 1037 to 1037.3, inclusive, and Sections 510 and 510.1.~~

19 **~~SEC. 1036. 30. PURPOSE AND FINDINGS.~~**

20 ~~—The Board of Supervisors of the City and County of San Francisco hereby finds and declares~~
21 ~~as follows:~~

22 ~~—(a) The number of video game machines is rapidly increasing in the City and County of San~~
23 ~~Francisco. Between January 1, 1982 and March 31, 1982, the Police Department issued 81 permits for~~
24 ~~mechanical amusement devices covering a total of 493 machines, approximately 90 percent of which~~
25

1 ~~were video game machines. Currently, there are approximately 48 applications pending for mechanical~~
2 ~~amusement device permits for an additional 178 video game machines.~~

3 ~~—(b) As the number of video game machines has increased, public concern has grown with~~
4 ~~respect to the location of these machines, the number of machines permitted at any given location,~~
5 ~~creation of street and sidewalk congestion where these machines are concentrated, accessibility to the~~
6 ~~machines by minors during school hours, and the occurrence of public disturbances and petty crimes in~~
7 ~~the vicinity of these machines.~~

8 ~~(c) It is hereby declared to be the policy of the Board of Supervisors to regulate reasonable~~
9 ~~and orderly public access for patrons wishing to play video game machines, while at the same time~~
10 ~~protecting the health, safety and welfare of the general public, both on the premises and in the vicinity~~
11 ~~of the premises where video games are located.~~

12 **SEC. 1036.2331. MECHANICAL AMUSEMENT DEVICES; LOCATION.**

13 (a) **Prohibited.** It shall be unlawful for any owner or operator of a mechanical
14 amusement device to cause, permit or allow same to be located, operated or maintained to be
15 operated, and the Entertainment Commission may not issue a permit for said devices, *in the*
16 *following areas:*

17 ~~(1) Within a building which has a public entrance which is located within 300 feet of the~~
18 ~~nearest street entrance to or exit from any public playground or public or private school of elementary~~
19 ~~or high school grades; said 300 feet to be measured from said entrance or exit in the most direct line or~~
20 ~~route which may be walked, legally or not, on, along or across said street or streets adjacent said~~
21 ~~public playground or public or private school of elementary or high school grades; provided, however,~~
22 ~~that this Section is not intended to prevent the placement of mechanical amusement devices on the~~
23 ~~premises of public or private schools of elementary or high school grades.~~

24 ~~—(2) Within any area of the City and County of San Francisco zoned exclusively for~~
25 ~~residential use, as defined in Sections 790.88 and 890.88 of the Part II, Chapter II (City Planning~~

Code ~~or any successor legislation~~ of the ~~Municipal Code~~. The restrictions set forth in this Subsection (a) shall not apply (1) in such areas as may be designated by resolution of the Board of Supervisors, or (2) to nonprofit religious institutions, schools, hospitals, convalescent and nursing homes and nonprofit community centers.

~~— (3) In any service station or automobile repair garage in areas zoned for neighborhood commercial or community business use as defined in Part II, Chapter II (City Planning Code) of the Municipal Code.~~

(b) Ancillary Use: One Through Ten Mechanical Amusement Devices Allowed.

Subject to the permit requirements set forth above in Section 1036.3 and except where prohibited by Subsection (a) ~~of this Section 1036.23 or by the Planning Code~~, an owner or operator of a mechanical amusement device or devices may cause, permit or allow same to be located, operated or maintained to be operated within any area of the City ~~and County of San Francisco~~ one through ten mechanical amusement devices as an ~~Acessory~~ Ancillary Use, subject to the restrictions of this subsection:

~~—The maximum number of mechanical amusement devices allowed in each premises shall be determined by the number of square feet of enclosed public retail floor space on a single floor under a single management as follows:~~

<i>Square Feet</i>	<i>Maximum Number of MADs</i>
<i>0-300</i>	<i>0</i>
<i>301-1000</i>	<i>2</i>
<i>1001-1500</i>	<i>3</i>
<i>1501-2000</i>	<i>4</i>
<i>2001-2500</i>	<i>5</i>

1	2501-3000	6
2	3001-3500	7
3	3501-4000	8
4	4001-4500	9
5	4501 or more	10

7
8 (c) **Arcades: Eleven or More Mechanical Amusement Devices Allowed.** Subject to
9 the permit requirements set forth above in Section 1036.3 and except where prohibited by
10 Subsection (a) of this Section 1036.23 or by the Planning Code, the owner or operator of
11 mechanical amusement devices may operate an Arcade ~~except in those areas prohibited in~~
12 ~~Subsection (a) and in those areas zoned exclusively for neighborhood commercial or community~~
13 ~~business use.~~

14 ~~(d) Exceptions. The limitations and restrictions set forth in Subsections (a) and (b) above, shall~~
15 ~~not apply in the following instances:~~

16 ~~(1) Where the application is for mechanical amusement devices in an industrial zone or in the~~
17 ~~area bounded on the west by Van Ness Avenue, on the south by North Point Street and on the east and~~
18 ~~north by San Francisco Bay, or such similar areas as may be designated by resolution of the Board of~~
19 ~~Supervisors from time to time.~~

20 ~~—(2) Where a public or private school requests authorization from the Entertainment~~
21 ~~Commission for a permit to place mechanical amusement devices on premises under the jurisdiction of~~
22 ~~said public or private school and intended for the use of students and staff of said school.~~

23 ~~—(3) Premises upon which the California Department of Alcoholic Beverage Control has~~
24 ~~authorized on-sale consumption of alcoholic beverages, provided that the premises or operations may~~
25 ~~not lawfully allow minors thereon.~~

1 — ~~(4) Bowling alleys, except that there shall be no more than two mechanical amusement~~
2 ~~devices for each bowling lane. The mechanical amusement devices in bowling alleys shall not be~~
3 ~~separately accessible from the street.~~

4 — ~~(5) Billiard parlors.~~

5 — ~~(6) Tourist hotels of more than 25 guest rooms; provided, however, that the mechanical~~
6 ~~amusement devices be intended for use of guests only and provided further that the mechanical~~
7 ~~amusement devices be neither accessible to the public except by passing the front desk nor visible from~~
8 ~~the street.~~

9 — ~~(7) Theaters, both for performing arts and movies; provided, however, that the mechanical~~
10 ~~amusement devices be located in an area in which only patrons who have paid admission are allowed,~~
11 ~~and that all provisions in the Fire Code respecting the placement of machines be met.~~

12 — ~~(8) Churches, schools, hospitals, convalescent and nursing homes and nonprofit community~~
13 ~~centers (e.g. YMCA); provided, however, that the use of such machines be incidental and subordinate~~
14 ~~to the primary purpose of the institution.~~

15 **~~SEC. 1036.31-1. ARCADE LOCATION; LIMITATION.~~**

16 — ~~Notwithstanding the provisions of Section 1036.31, it shall be unlawful for any owner or~~
17 ~~operator of an arcade to cause, permit or allow same to be located, operated or maintained to be~~
18 ~~operated, and the Entertainment Commission may not issue a permit for said arcade, within a building~~
19 ~~which has a public entrance which is located within 1500 feet of the nearest public entrance to or exit~~
20 ~~from any arcade which has a valid permit. Said 1500 feet shall be measured from said entrance or exit~~
21 ~~in the most direct route which may be walked, legally or not, on, along or across the street, streets or~~
22 ~~public rights-of-way adjacent to said arcade.~~

23 **~~SEC. 1036.2432. ARCADES AND ANCILLARY USE— OPERATING STANDARDS.~~**

24 ~~(a) Arcades.~~ The following standards and regulations shall apply to the operation and
25 maintenance of Aarcades in the City.

1 (a) (1) All mechanical amusement devices within the premises shall be visible to
2 and supervised by an adult attendant or attendants, age 18 years or older. Said attendant(s)
3 shall be present at all times when the arcade is open to the public.

4 ~~—(b) The supervision of the patrons on and about the premises shall be adequate to protect
5 public against conduct of patrons that is detrimental to the public health, safety, and general welfare.~~

6 ~~—(c) The permit holder shall be responsible for ensuring that persons under the age of 18
7 years not be allowed to operate mechanical amusement devices during the school year from the day
8 after Labor Day to Memorial Day, Monday through Friday, except legal holidays, between the hours of
9 7:00 a.m. and 3:00 p.m., or between the hours of 10:00 p.m. and 7:00 a.m. on all days preceding
10 school days and between 11:00 p.m. and 7:00 a.m. on all other days unless accompanied by an
11 authorized agent of the School District, parent or legal guardian; provided, however, that premises
12 which have mechanical amusement devices as provided under Section 1036.31(d), Subparagraphs 3, 4,
13 5, 6, 7 and 8 are exempted from the provisions of this subsection.~~

14 ~~—(d) Establishments dispensing food services shall provide adequate waste receptacles, which
15 shall be conveniently located in the vicinity of the mechanical amusement devices; arcade premises
16 shall be adequately ventilated and illuminated.~~

17 (e-2) The Permittee permit holder shall comply with security lighting requirements,
18 token-use requirements and such other reasonable requirements determined by the
19 Entertainment Commission to be necessary to minimize danger to the community resulting
20 from the operation of the arcade. These requirements shall be set forth in the permit or, in the
21 event circumstances change, by appropriate amendment to the permit.

22 ~~—(f) An arcade may have no more than one mechanical amusement device per 30 square feet
23 of public retail floor space.~~

24 (g-3) As a condition for obtaining a permit for mechanical amusement devices,
25 the applicant shall be required to provide a master switch, ~~or~~ switches, or fuse panel readily

1 accessible to the Permittee permit holder, employees or agent of the Permittee permit holder and
2 the Police Department, that can immediately turn off all mechanical amusement devices in the
3 Aarcade. The permit shall also specify that the applicant consents to and authorizes the Police
4 Department to turn off all mechanical amusement devices ~~for a period of up to six hours~~ at any
5 time there is a clear and present danger to the public safety.

6 (b) Ancillary Use. The Permittee for an Ancillary Use shall comply with such reasonable
7 requirements as determined by the Entertainment Commission to be necessary to minimize danger to
8 the community resulting from the operation of the mechanical amusement devices. These requirements
9 shall be set forth in the permit or, in the event circumstances change, by appropriate amendment to the
10 permit.

11 **~~SEC. 1036.33. ACCESSORY USES — OPERATING STANDARDS.~~**

12 ~~The following standards and regulations shall apply to the operation and maintenance of all~~
13 ~~premises containing mechanical amusement devices except those premises regulated under Section~~
14 ~~1036.32 of this Code:~~

15 ~~(a) Mechanical amusement devices shall be located in the main body of the premises, not~~
16 ~~separated therefrom by any wall or partition.~~

17 ~~(b) The supervision of the patrons on the premises shall be adequate to ensure that there be no~~
18 ~~conduct that is detrimental to the public health, safety, and general welfare. Where there are five or~~
19 ~~more mechanical amusement devices within the premises, all mechanical amusement devices within~~
20 ~~said premises shall be visible to and supervised by an adult attendant or attendants, age 18 years or~~
21 ~~older. Said attendant(s) shall be present at all times when any mechanical amusement device is being~~
22 ~~operated.~~

23 ~~(c) The permit holder for an Ancillary Use shall comply with such reasonable requirements as~~
24 ~~determined by the Entertainment Commission to be necessary to minimize danger to the community~~

1 *resulting from the operation of the mechanical amusement devices. These requirements shall be set*
2 *forth in the permit or, in the event circumstances alter, by appropriate amendment to the permit.*

3 *—(d) The permit holder shall be responsible for ensuring that mechanical amusement devices*
4 *be kept turned off during the school year from the day after Labor Day to Memorial Day, Monday*
5 *through Friday, except legal holidays, between the hours of 7:00 a.m. and 3:00 p.m., and between the*
6 *hours of 10:00 p.m. and 7:00 a.m. on all days preceding school days and between 11:00 p.m. and 7:00*
7 *a.m. on all other days; provided, however, that premises which have mechanical amusement devices as*
8 *provided under Section 1036.31(d), subparagraphs 3, 4, 5, 6, 7 and 8 be exempted from the provisions*
9 *of this subsection.*

10 *—(e) Establishments dispensing food services shall provide adequate waste receptacles which*
11 *shall be conveniently located in the vicinity of the mechanical amusement devices.*

12 ***SEC. 1036.34. EXCEPTION TO REQUIREMENTS.***

13 *Notwithstanding the provisions of Section 1036.31 and 1036.31-1, any person who possesses a*
14 *valid permit heretofore issued by the Chief of Police for the ownership, operation and maintenance of*
15 *mechanical amusement devices in accordance with the provisions of Sections 1036 to 1036.29,*
16 *inclusive, may operate those mechanical amusement devices included in said permit upon the premises*
17 *for which said permit to operate was issued until the expiration, revocation or suspension of said*
18 *permit without obtaining a new permit; provided, however, that the permit holder comply with the*
19 *requirements of Sections 1036 to 1036.33, excluding Sections 1036.31 and 1036.31-1, from the*
20 *effective date of this Section; provided further that said permit may not be transferred. The operating*
21 *standards set forth in Section 1036.33 of this Article shall apply to the operation and maintenance of*
22 *all premises containing mechanical amusement devices in those areas zoned exclusively for*
23 *neighborhood-commercial or community business use, regardless of the number of mechanical*
24 *amusement devices on the premises.*

25 ***SEC. 1036.35. EXEMPTION.***

1 ~~Notwithstanding any provisions of Sections 1036 to 1036.34, inclusive, to the contrary, the~~
2 ~~Recreation and Park Commission of the City and County of San Francisco shall have exclusive~~
3 ~~jurisdiction to determine whether and under what conditions mechanical amusement devices may be~~
4 ~~placed on property under its jurisdiction.~~

5 **SECTION 1036.25. UNDERTAKING FOR THE GENERAL WELFARE.**

6 In enacting and implementing Sections 1036 through 1036.24, inclusive, the City is assuming an
7 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers
8 and employees, an obligation for breach of which it is liable in money damages to any person who
9 claims that such breach proximately caused injury.

10
11 Section 3. This ordinance does not affect the validity of existing permits for mechanical
12 amusement devices. If an existing Permittee is no longer obligated to maintain a permit under
13 the requirements of this ordinance, the Permittee shall not be required to renew his or her
14 license under Section 1036.14 of the Police Code and the permit shall expire by operation of
15 law. This ordinance shall not in any manner be construed as a waiver of any license or permit
16 fees or any other fees or money due and unpaid under the provisions of any section of the
17 Municipal Code or any City ordinance. This ordinance does not give rise to any claim for a
18 refund of any license or permit fees or any other fees already paid, even if a Permittee is no
19 longer required to maintain a permit under this ordinance as a result of the change in law.

20
21 Section 4. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 FRANCESCA GESSNER
12 Deputy City Attorney

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