

1 [Entertainment Commission – Extended-Hours Premises Permits.]

2

3 **Ordinance amending the San Francisco Police Code by amending Sections 1070,**
4 **1070.1, 1070.2, 1070.3, 1070.5, 1070.7, 1070.8, 1070.19, 1070.22, and 1070.24, by adding**
5 **Sections 1070.28, 1070.29, 1070.30, 1070.31 and 1070.32; by repealing Sections 1070.4,**
6 **1070.12, 1070.17, 1070.20, 1070.20-1, 1070.21, and 1070.26; and by adding new Sections**
7 **1070.4, 1070.17, and 1070.20, relating to the application, approval, amendment,**
8 **suspension, revocation, and transfer of Extended-Hours Premises Permits, including**
9 **changes in penalties.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are *strikethrough italics Times New Roman*.
12 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

14 Section 1. The San Francisco Police Code is hereby amended by amending Sections
15 1070, 1070.1, 1070.2, and 1070.3, to read as follows:

16 **SEC. 1070. DEFINITIONS.**

17 For the purpose of this Article, *unless otherwise provided in this Article*, the following
18 words and phrases shall mean and include:

19 *(a) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious,*
20 *benevolent, or other nonprofit organization for mutual social, mental, political, or civic welfare, to*
21 *which admission is limited to members and guests if the revenue accruing therefrom is used exclusively*
22 *for the benevolent purposes of said organization or agency, and if the organization or agency is exempt*
23 *from taxation under the Internal Revenue laws of the United States as a bona fide fraternal, charitable,*
24 *religious, benevolent or nonprofit organization.*

25

1 (b) "Bona Fide Public Eating Place." A place regularly and in a bona fide manner used for
2 the serving of meals for compensation, with suitable kitchen facilities containing conveniences for
3 cooking an assortment of foods for ordinary meals.

4 (c) "Business." The enterprise for which a permit is sought or has been issued under this
5 Article, whether operated on a for-profit or not-for-profit basis.

6 (d) "Dance Academy." The term "Extended-Hours Premises" also includes a dance
7 academy wherein students are admitted between 2:00 a.m. and 6:00 a.m., and instruction is given in
8 ballroom or other types of dancing, whether to the students in groups or individually.

9 (e) "Director." The Executive Director of the Entertainment Commission or a person
10 designated by the Director to act on his or her behalf.

11 (f) "Entertainment." Any of the following, except when conducted in a private residence:

12 (1) Any act, play, review, pantomime, scene, song, dance act, song and dance act, or poetry
13 recitation, conducted in or upon any premises to which patrons or members are admitted.

14 (2) The playing or use of any instrument capable of producing or used to produce musical
15 or percussion sounds, including but not limited to, reed, brass, percussion, or string-like instruments,
16 or karaoke, or recorded music presented by a live disc jockey on the premises.

17 (3) A fashion or style show.

18 (4) The act of any female professional entertainer, while visible to any customer, who
19 exposes the breast or employs any device or covering which is intended to simulate the breast, or wears
20 any type of clothing so that the breast may be observed.

21 (g) "Extended-Hours Premises." Every premises to which patrons or members are admitted
22 or which allows patrons or members to remain between 2:00 a.m. and 6:00 a.m. and which serves food,
23 beverages, or food and beverages, including but not limited to, alcoholic beverages, for consumption
24 on the premises, or wherein Entertainment as defined in Subsection (f) is furnished or occurs upon the
25 premises. The term includes a "Dance Academy."

1 (h) "Manager. The individual authorized by the Permittee to exercise discretionary power
2 to organize, direct, carry out or control the operations of the Business.

3 (i) "Permittee." The person to whom a permit has been issued under this Article.

4 (j) "Person." Any person, individual, firm, partnership, joint venture, association, social
5 club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver,
6 syndicate, or any other group or combination acting as a unit excepting the United States of America,
7 the State of California, and any political subdivision of either.

8 (k) "Security Guard." A person who has a valid Proprietary Private Security Officer
9 registration document issued by the California Department of Consumer Affairs or is a Patrol Special
10 Police Officer appointed by the Police Commission or an assistant to a Patrol Special Police Officer.

11 (l) "Security Plan." A plan that adequately addresses the safety of persons and property by
12 (i) providing at least one Security Guard for every 100 individuals anticipated to be present during
13 Entertainment events on the premises of the Business, (ii) securing the sidewalk for a fifty-foot radius in
14 all directions around the premises of the Business to prevent injury to persons and/or damage to
15 property, and (iii) providing for the orderly dispersal of individuals and traffic from the premises of the
16 Business and within fifty feet of any door that patrons use to enter or exit the premises. "Fifty feet"
17 means 50 feet from the door in both directions on the same side of the street as the premises of the
18 Business. The plan shall include sufficient staff with the requisite experience to implement the plan.

19 (m) "Tax Collector." Tax Collector of the City and County of San Francisco.

20 ~~(a) Extended Hours Premises. Every premises to which patrons or members are admitted or~~
21 ~~which allows patrons or members to remain on the premises between the hours of 2:00 a.m. and 6:00~~
22 ~~a.m. which serves food, beverages, or food and beverages, including but not limited to, alcoholic~~
23 ~~beverages, for consumption on the premises or wherein entertainment as defined in Subsections (b) and~~
24 ~~(c) is furnished or occurs upon the premises.~~

1 ~~(1) Dance Academies. An extended hours premises shall also include a dance academy~~
2 ~~wherein students are admitted between the hours of 2:00 a.m. and 6:00 a.m., and instruction is given in~~
3 ~~ballroom or other types of dancing, whether given to the students in groups or individually.~~

4 ~~(b) Entertainment. Any act, play, review, pantomime, scene, song, dance act, song and dance~~
5 ~~act, or poetry recitation, conducted or participated in by any professional entertainer in or upon any~~
6 ~~premises to which patrons or members are admitted. "Entertainment" also includes a fashion or style~~
7 ~~show, except when conducted by a bona fide nonprofit club or organization as part of the social~~
8 ~~activities of such club or organization, and when conducted solely as a fund raising activity for~~
9 ~~charitable purposes. (The term "professional entertainer" as used herein means a person or persons~~
10 ~~who engage in the presentation of entertainment for livelihood or gain.)~~

11 ~~"Entertainment," in addition, is defined to mean and include the playing upon or use of any~~
12 ~~instrument that is capable of or can be used to produce musical sounds or percussion sounds, including~~
13 ~~but not limited to, reed, brass, percussion or string like instruments; provided, further, that~~
14 ~~"entertainment" is defined to mean any instrument or device capable of producing or reproducing~~
15 ~~sound, which device is located in a premises open between the hours of 2:00 a.m. and 6:00 a.m.~~

16 ~~(c) Informal Entertainment. Any act, play, review, pantomime, scene, song, dance act, song~~
17 ~~and dance act, or poetry recitation, conducted or participated in by any nonprofessional person or~~
18 ~~persons in or upon any premises to which patrons or members are admitted.~~

19 ~~(d) Person. An individual, firm, partnership, joint venture, association, social club, fraternal~~
20 ~~organization, joint stock company, corporation, estate, trust, business trust, receiver, syndicate, or any~~
21 ~~other group or combination acting as a unit excepting the United States of America, the State of~~
22 ~~California, and any political subdivision of either thereof.~~

23 ~~(e) Operator. Any person operating an extended hours premises in the City and County of San~~
24 ~~Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee,~~
25

1 ~~mortgagee in possession, licensee or any other person operating such place of entertainment or~~
2 ~~amusement.~~

3 ~~(f) Bona Fide Nonprofit Club or Organization. Any fraternal, charitable, religious or~~
4 ~~benevolent, or any other nonprofit organization having a regular membership association primarily for~~
5 ~~mutual social, mental, political and civil welfare, to which admission is limited to members and guests~~
6 ~~and revenue accruing therefrom to be used exclusively for the benevolent purpose of said organization~~
7 ~~and which organization or agency is exempt from taxation under the Internal Revenue laws of the~~
8 ~~United States as a bona fide fraternal, charitable, religious, benevolent or nonprofit organization.~~

9 ~~(g) Admission Charge. Any charge for the right or privilege to enter any extended hours~~
10 ~~premises including a minimum service charge, a cover charge or a charge made for the use of seats~~
11 ~~and tables, reserved and otherwise.~~

12 ~~(h) Tax Collector. Tax Collector of the City and County of San Francisco.~~

13 ~~(i) "Bona Fide Public Eating Place." A place which is regularly and in bona fide manner used~~
14 ~~and kept open for the serving of meals to guests for compensation and which has suitable kitchen~~
15 ~~facilities connected therewith, containing conveniences for cooking an assortment of foods which may~~
16 ~~be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the~~
17 ~~proper amount of refrigeration for keeping of food on said premises and must comply with all the~~
18 ~~regulations of the Department of Public Health. "Meals" means the usual assortment of foods~~
19 ~~commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches~~
20 ~~or salads shall not be deemed a compliance with this requirement. "Guests" shall mean persons who,~~
21 ~~during the hours when meals are regularly served therein, come to a bona fide public eating place for~~
22 ~~the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein.~~
23 ~~Nothing in this Section, however, shall be construed to require that any food be sold or purchased with~~
24 ~~any beverage.~~

25 **SEC. 1070.1. PERMIT REQUIRED.**

1 (a) It shall be unlawful for any Person to own, conduct, operate, maintain, or to cause or
2 permit to be conducted, operated, or maintained, any Extended-Hours Premises in the City and County
3 of San Francisco without first having obtained a permit from the Entertainment Commission.

4 (b) No Person may conduct, operate or maintain, or cause or permit to be conducted,
5 operated, or maintained, an Extended-Hours Premises for which a permit has been granted (1) after
6 the permit has been revoked or (2) for any period of time during which the permit has been suspended
7 or is otherwise invalid.

8 ~~It shall be unlawful for any person to own, conduct, operate, maintain or to participate therein,~~
9 ~~or to cause or permit to be conducted, operated or maintained, any extended hours premises in the City~~
10 ~~and County of San Francisco without first having obtained a permit from the Entertainment~~
11 ~~Commission.~~

12 ~~Any place or premises where a permit to operate is sought must conform to all existing health,~~
13 ~~safety, and fire ordinances of the City and County of San Francisco, and must have a valid public~~
14 ~~eating place permit from the Department of Public Health.. The Entertainment Commission may issue~~
15 ~~a permit under this Section conditional upon the applicant receiving the other required permits.~~

16 ~~Any permit granted by the Entertainment Commission conditional upon the applicant receiving~~
17 ~~other required permits may be appealed to the Board of Appeals. Such appeal must be filed within 10~~
18 ~~days of the final decision of the Entertainment Commission issuing the conditional permit.~~

19 ~~Any conditional permit granted by the Entertainment Commission will expire nine months from~~
20 ~~the date of the final decision of the Entertainment Commission, if all the other required permits have~~
21 ~~not been received.~~

22 **SEC. 1070.2. FILING APPLICATION AND NOTICE TO OTHER CITY DEPARTMENTS.**

23 Every person seeking ~~desiring~~ a permit or an amendment to a permit under ~~pursuant to~~ this
24 Article shall file an application with the Entertainment Commission upon a form provided by
25 the Entertainment Commission and shall pay a filing fee as provided by Section 2.26 of this Code.

1 (b) The Director shall send notice of the application to the San Francisco Police
2 Department, Fire Department, Department of Building Inspection, Department of Public Health, and
3 Department of City Planning.. Those departments shall complete all necessary inspections and report
4 their determinations to the Entertainment Commission within 20 City business days of the filing of the
5 application.

6 **SEC. 1070.3. APPLICATION FORM.**

7 ~~Operators under any permit issued pursuant to this Article shall be limited to the terms of the~~
8 ~~application.~~ Except as otherwise provided herein, an application for a permit pursuant to the
9 provisions of this Article shall specify: the same information required under Section 1060.3 of this
10 Code for applications for Place of Entertainment Permits.

11 ~~(a) The address of the location for which the permit is required, together with the business name~~
12 ~~of such location.~~

13 ~~(b) The name and proposed business address of the applicant. If the applicant is a corporation,~~
14 ~~the name of the corporation shall be set forth exactly as shown in its articles of incorporation; and the~~
15 ~~applicant shall also set forth the date and place of incorporation; the names and residence addresses of~~
16 ~~each of the officers, directors, and each stockholder owning more than 10 percent of the stock of the~~
17 ~~corporation. If the applicant is a partnership, the application shall set forth the name and residence~~
18 ~~address of each of the partners, including limited partners. If one or more of the partners is a~~
19 ~~corporation, the provisions of this Section pertaining to a corporate applicant apply.~~

20 ~~(c) Whether or not the applicant or any officer or director or member of applicant, as the case~~
21 ~~may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to the~~
22 ~~foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10~~
23 ~~percent of the stock of such corporation has ever been convicted of any crime except misdemeanor~~
24 ~~traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be~~
25 ~~made giving the name of the person so convicted, the place and court in which the conviction was had,~~

1 ~~the specific charge under which the conviction was obtained, and the sentence imposed as the result of~~
2 ~~said conviction.~~

3 ~~(d) The names and addresses of the persons who have authority or control over the place for~~
4 ~~which the permit is requested, and brief statement of the nature and extent of such authority and~~
5 ~~control.~~

6 ~~(e) Such information pertinent to the operation of the proposed activity, including information~~
7 ~~as to management, authority, control, financial agreements, and lease arrangements, that is reasonably~~
8 ~~related to the factual determinations this ordinance empowers the Chief to make in reviewing and~~
9 ~~acting upon permit applications as the Chief of Police may require of an applicant in addition to the~~
10 ~~other requirements of this Section. The foregoing examples are in explanation and not in limitation of~~
11 ~~the information which the Entertainment Commission may require.~~

12 ~~(f) A business plan for the proposed extended hours premises, specifying the days and hours of~~
13 ~~operation, the number of patrons, the numbers of employees and their duties, the identity of the~~
14 ~~manager or managers who shall be on premises during all hours of operation, the types or classes of~~
15 ~~entertainment (in terms of the types of instruments, numbers of performers and sound levels) to be~~
16 ~~provided, and the amount of parking, both on site and off site, to be provided. If sound amplification is~~
17 ~~to be used, the plan shall also include a specific description of the amplification system.~~

18 ~~(g) The address to which notice, when required, is to be sent or mailed, and the name and~~
19 ~~address of a person authorized to accept service of process, if not otherwise set forth herein.~~

20 ~~(h) Whether the application is for a new permit or for the renewal of an existing permit.~~

21 ~~(i) The Entertainment Commission may require further information as he or she deems~~
22 ~~necessary.~~

23 Section 2. The San Francisco Police Code is hereby amended by repealing Section
24 1070.4.

25 ~~**SEC. 1070.4. VERIFICATION OF APPLICATION.**~~

1 ~~Every application for a permit under this Article shall be verified as provided in the California~~
2 ~~Code of Civil Procedure for the verification of pleadings.~~

3 Section 3. The San Francisco Police Code is hereby amended by adding Section
4 1070.4, to read as follows:

5 **SEC. 1070.4. NOTICE REQUIREMENTS AND CONTACT INFORMATION.**

6 (a) Unless otherwise provided in this Article, the following definitions apply.

7 (i) To provide notice "electronically" means to send written notice by email, facsimile or in
8 any other manner that the Director designates as appropriate to transmit written information other
9 than by mail.

10 (ii) To "mail" notice or give notice "by mail" means depositing the notice in a sealed
11 envelope or package clearly labeled to identify the individual to whom it is sent, in a post office,
12 mailbox, or other facility regularly maintained by the United States Postal Service, by First Class Mail,
13 with postage prepaid. The requirement that notice be mailed within a specified period of time means
14 that the notice is deposited in the mail within that period of time.

15 (iii) "Personally deliver" or "personal delivery" means delivering notice or causing notice to
16 be delivered in person.

17 (iv) "Notice" means notice of a hearing, decision, action required of an applicant for a
18 permit or a Permittee, or any other information that this Article requires to be given or which the
19 Entertainment Commission or the Director find appropriate in implementing the provisions of this
20 Article.

21 (b) Applicants for a permit and Permittees shall provide information necessary to enable
22 the Entertainment Commission and the Director to give notice under this Article. Applicants and
23 Permittees shall provide the Director in writing with a street address where the applicant and
24 Permittee receive mail from the United States Postal Service, and with any email address, facsimile
25 number or other information necessary to enable notice to be sent to the applicant and Permittee

1 electronically. The applicant and Permittee shall keep the information required by this Section current
2 by informing the Director in writing of any change. When the Commission or Director mails or
3 personally delivers notice or sends notice electronically to the applicant or Permittee in accordance
4 with the information most recently provided in writing by that Person, such action shall satisfy the
5 requirements of this Article with respect to how notice is given.

6 (c) In some circumstances, this Article requires notice to the Manager. The Permittee shall
7 provide a telephone and/or cell phone number and a facsimile number or email address for the
8 transmission of notice to the Manager. The Permittee shall keep current the contact information for the
9 Manager and shall notify the Director in writing of any change in this information. The Manager may
10 designate other individuals to whom notice is to be given for any periods of the Manager's absence or
11 unavailability by providing this information in writing to the Director. When the Commission or
12 Director mails or personally delivers notice or sends notice electronically to the Manager, or to any
13 individual designated by the Manager to receive notice in place of the Manager, in accordance with the
14 information most recently provided in writing by the Permittee for the Manager, or by the Manager for
15 his or her designee, such action shall satisfy the requirements of this Article that notice be given to the
16 Manager.

17 (d) The Director may require applicants, Permittees and Managers to provide different or
18 additional contact information for receipt of notice as communication technologies change.

19 (e) A Permittee may change the name and/or address of the individual provided by the
20 Permittee in the permit application to receive service of process by providing written notice to the
21 Director.

22 Section 4. The San Francisco Police Code is hereby amended by amending Section
23 1070.5, to read as follows:

24 **SEC. 1070.5. DETERMINATION OF APPLICATION.**

25

1 The procedures and standards set forth in Section 1060.5 of this Code shall govern the review
2 and determination of applications for Extended-Hours Premises Permits.

3 ~~(a) When an application is filed for a new permit under this Article, the Entertainment~~
4 ~~Commission shall fix a time and place for a public hearing thereon to determine whether issuance of~~
5 ~~the permit would result in any of the conditions set forth in Subsection (e). The hearing must be held~~
6 ~~within 45 working days of the date the completed application is received.~~

7 ~~(b) At the time of filing of an application, the applicant shall notify the Entertainment~~
8 ~~Commission of any outstanding requests for permits or approvals from other City departments relating~~
9 ~~to the premises of the proposed extended hours premises. The Entertainment Commission shall notify~~
10 ~~those departments of the filing of the application. Those departments shall complete all necessary~~
11 ~~inspections and report their determinations to the Entertainment Commission within 20 working days~~
12 ~~of the filing of the application.~~

13 ~~(c) Not less than 30 days before the date of such hearing, the Entertainment Commission shall~~
14 ~~cause to be posted a notice of such hearing in a conspicuous place on the property in which or on~~
15 ~~which the proposed extended hours premises is to be operated. Such notice shall set forth the specific~~
16 ~~type of entertainment which the applicant intends to conduct. Such posting of notice shall be carried~~
17 ~~out by the Entertainment Commission, and the applicant shall maintain said notice as posted the~~
18 ~~required number of days. Notice of such hearing shall be mailed by the Chief of Police at least 30 days~~
19 ~~prior to the date of such hearing to any person who has filed a written request for such notice.~~

20 ~~(d) At the hearing, the applicant and any other interested party, including the Police~~
21 ~~Department or any other public agency, shall be allowed to introduce evidence and present argument.~~
22 ~~The Entertainment Commission shall make a final decision upon the application at a public hearing,~~
23 ~~and shall notify the applicant, and any other interested party who has made a written request, of the~~
24 ~~final decision by first class mail.~~

1 ~~(e) No time limit shall commence running until the submission of a completed application.~~
2 ~~Upon the applicant's request, the Entertainment Commission shall continue the hearing to allow the~~
3 ~~applicant opportunity to comply with the requirements of this Article or any other State or local law.~~
4 ~~Upon the applicant's request, the Entertainment Commission shall also issue a conditional approval of~~
5 ~~the permit application, pending approval of the permit by other City agencies, if sufficient information~~
6 ~~has been provided to allow for adequate evaluation of the proposal and if grounds for denial, as set~~
7 ~~forth in Subsection (f), are not present.~~

8 ~~(f) The Entertainment Commission shall grant a permit pursuant to this Article unless he or she~~
9 ~~finds that:~~

10 ~~(i) The building, structure, equipment or location of the proposed place of entertainment does~~
11 ~~not comply with or fails to meet all of the health, zoning fire and safety requirements or standards of all~~
12 ~~the laws of the State of California or ordinances of the City and County of San Francisco applicable to~~
13 ~~such business operation; or~~

14 ~~(ii) The building, structure, equipment or location of the proposed extended hours premises~~
15 ~~cannot adequately accommodate the type and volume of vehicle and pedestrian traffic anticipated; or~~

16 ~~(iii) The building, structure, equipment or location of the proposed extended hours premises~~
17 ~~lack adequate safeguards to prevent emissions of noise, glare, dust and odor that substantially interfere~~
18 ~~with the public health, safety and welfare or the peaceful enjoyment of neighboring property.~~

19 ~~(g) An applicant whose application for a permit has been denied pursuant to this Section may~~
20 ~~seek immediate judicial review pursuant to Code of Civil Procedure Section 1085 or Section 1094.5.~~

21 ~~The applicant is not required to exhaust his or her administrative remedies before the Board of~~
22 ~~Appeals.~~

23 Section 5. The San Francisco Police Code is hereby amended by amending Sections
24 1070.7 and 1070.8, to read as follows:

25 **SEC. 1070.7. SOLICITATION OF DRINKS OR MERCHANDISE.**

1 (a) No Permittee ~~operator of an extended hours premises~~ shall employ or permit any
2 hostess, entertainer, or Person ~~person~~ to solicit any patron or customer of or visitor in said
3 Extended-Hours Premises ~~extended hours premises~~ to purchase any beverage or merchandise for
4 the one soliciting or for any other Person ~~person~~.

5 (b) No Permittee ~~operator of an extended hours premises~~ shall employ any hostess or
6 entertainer for the purpose of procuring or encouraging the purchase or sale of beverages or
7 merchandise, or pay any such hostess or entertainer a percentage or commission on the sale
8 of beverages or merchandise for procuring or encouraging the purchase or sale of beverages
9 or merchandise on said premises.

10 **SEC. 1070.8. SOLICITATION OF TRADE.**

11 No Permittee ~~operator of an extended hours premises~~ shall permit or allow or cause any
12 Person, including any employee of the Extended-Hours Premises, ~~extended hours premises~~ to solicit
13 by personal solicitation or otherwise, or by means of any device whereby the voice of the
14 person soliciting can be heard at or near such entrance.

15 Section 6. The San Francisco Police Code is hereby amended by repealing Section
16 1070.12:

17 ~~**SEC. 1070.12. MISCELLANEOUS RULES.**~~

18 ~~No professional entertainer or employee may dance, unnecessarily converse, or associate with~~
19 ~~any customer on the premises in any extended hours premises; provided, however, that a regularly~~
20 ~~scheduled audience participation type of entertainment may be presented during the time slated and in~~
21 ~~the manner described in an advertisement posted in a regularly printed program. Provided, further,~~
22 ~~that a copy of said advertisement shall be received by the Entertainment Commission 24 hours prior to~~
23 ~~the conducting of said audience participation entertainment.~~

24 Section 7. The San Francisco Police Code is hereby amended by repealing Section
25 1070.17:

1 ~~SEC. 1070.17. SUSPENSION AND REVOCATION.~~

2 ~~(a) Any permit issued under the terms of this Article may be suspended at any time by the~~
3 ~~Entertainment Commission if the Entertainment Commission determines after a noticed public hearing~~
4 ~~that any of the following conditions exist:~~

5 ~~(1) The building, structure, equipment or location of the proposed extended hours premises~~
6 ~~does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards~~
7 ~~of all the laws of the State of California or ordinances of the City and County of San Francisco~~
8 ~~applicable to such business operation; or~~

9 ~~(2) The establishment has been operated in a manner that has harmed the public health, safety~~
10 ~~or welfare by significantly increasing pedestrian traffic, the incidence of disorderly conduct, or the~~
11 ~~level of noise in the area in which the premises are located, and the permittee has failed, after being~~
12 ~~requested by the Police Department or Entertainment Commission to do so, to take reasonable steps to~~
13 ~~alleviate these conditions, such as providing additional off street parking, security, soundproofing,~~
14 ~~restroom facilities, or refuse containers; or~~

15 ~~(3) The proprietor or persons in charge thereof have violated, permitted the violation, or failed~~
16 ~~to take reasonable steps, after being requested by the Police Department or Entertainment Commission~~
17 ~~to do so, to halt violations on the premises or in connection with the operation of the establishment, of~~
18 ~~any following laws of the State of California: Penal Code Sections 266h, 266i, 315, 316, 330, 337a,~~
19 ~~657(b); Business and Professions Code Sections 23300, 25602, 25631, 25657, 25658; Health and~~
20 ~~Safety Code Sections 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5; or, the proprietor~~
21 ~~or persons in charge thereof have implemented, maintained or permitted any admission or related~~
22 ~~policy or practice which violates Section 3305 of the San Francisco Police Code.~~

23 ~~(4) The proprietor or persons in charge thereof have violated or permitted the violation of any~~
24 ~~other provision of this Article or of the permit, on the premises or in connection with the operation of~~
25 ~~the establishment.~~

1 ~~(b) The penalty for the first violation under Subsection (a) within a period of six months shall be~~
2 ~~suspension of said permit for a period of 30 days. The penalty for the second violation within a period~~
3 ~~of six months shall be suspension of said permit for a period of 60 days. The penalty for the third and~~
4 ~~subsequent violations within a period of six months shall be suspension of said permit for a period of~~
5 ~~90 days. For the purposes of this Subsection, calculation of the six months shall not include any period~~
6 ~~of time during which the permit was suspended.~~

7 ~~(c) Any permit issued under the terms of this Article may be revoked at any time by the~~
8 ~~Entertainment Commission if it determines after a noticed public hearing that any of the following~~
9 ~~conditions exist:~~

10 ~~(1) The permittee has knowingly made any false, misleading or fraudulent statement of material~~
11 ~~fact in the application for a permit;~~

12 ~~(2) The permittee has failed to pay any fee or charge required under this Article; or~~

13 ~~(3) The permittee has permanently ceased operation of the business.~~

14 ~~(d) A revocation pursuant to Subsection (c) shall not prejudice the right of an applicant to apply~~
15 ~~for a new permit.~~

16 ~~(e) The Entertainment Commission may not consider any request for emergency medical or~~
17 ~~ambulance services to treat a permittee's patrons as a basis for suspending a permit pursuant to~~
18 ~~subdivision (a).~~

19 Section 8. The San Francisco Police Code is hereby amended by adding Section
20 1070.17, to read as follows:

21 **SEC. 1070.17. SUSPENSION.**

22 (a) Permits issued under this Article may be suspended by the Entertainment Commission
23 and the Director as follows:

1 (1) The Entertainment Commission may suspend a permit issued under this Article using the
2 procedures and standards set forth in Section 1060.20.1 of this Code for the suspension of Place of
3 Entertainment Permits.

4 (2) The Director may issue an order of limited suspension using the procedures and
5 standards set forth in Section 1060.20.2 of this Code for the limited suspension of Place of
6 Entertainment Permits.

7 (3) The Director may issue an order of suspension for public safety using the procedures
8 and standards set forth in Section 1060.20.3 of this Code for the suspension for public safety of Place
9 of Entertainment Permits.

10 (4) The Entertainment Commission and the Director have independent authority to suspend
11 permits; the action of one does not limit action by the other.

12 (b) The Entertainment Commission and the Director may not consider any request for
13 emergency medical or ambulance services to treat a Permittee's patrons as a basis for suspending a
14 permit.

15 Section 9. The San Francisco Police Code is hereby amended by amending Section
16 1070.19.; to read as follows:

17 **SEC. 1070.19. EXCEPTIONS.**

18 (a) The Entertainment Commission may grant an exception to an Extended-Hours
19 Premises ~~extended hours premises~~ as defined herein from the provisions of Sections 1070.11,
20 1070.13, and 1070.16 relating to lighting of the premises, booths, and minors ~~being~~ on the
21 premises if the Entertainment Commission shall find that the Extended-Hours Premises ~~extended-~~
22 ~~hours premises~~ is used exclusively for any of the following purposes:

23 (1) A Bona Fide Public Eating Place ~~bona fide public eating place~~ as defined herein to
24 which the Department of Public Health has issued a public eating place permit ~~has been issued by~~
25 ~~the Department of Public Health.~~ Any such Bona Fide Public Eating Place must be kept in a sanitary

1 condition with the proper amount of refrigeration for keeping of food on said premises and must
2 comply with all the regulations of the Department of Public Health.

3 (2) A Place of Entertainment with no place of entertainment that has no liquor license.

4 (3) Extended-Hours Premises ~~An extended hours premises that is operated by any public~~
5 ~~agency; or by any educational, recreational, or social agency; or by any Bona Fide Nonprofit~~
6 ~~Club or Organization bona fide fraternal, charitable, or religious or benevolent or any other nonprofit~~
7 ~~organization having a regular membership association primarily for mutual social, mental, political~~
8 ~~and civic welfare, to which admission is limited to members and guests and revenue accruing therefrom~~
9 ~~is used exclusively for the benevolent purposes of said organization and which organization or agency~~
10 ~~is exempt from taxation under the Internal Revenue laws of the United States as a bona fide fraternal,~~
11 ~~charitable, religious, benevolent or nonprofit organization.~~

12 (b) Any determination as to the exception status of any applicant pursuant to this
13 Section shall be made by the Entertainment Commission.

14 (c) A decision by the Entertainment Commission denying the exception from the
15 regulations shall be final except that an appeal therefrom may be taken within ten ~~10~~ days to
16 the Board ~~of Appeals.~~ ~~Review created by Ordinance No. 245-68. The Board of Review will consist of~~
17 ~~the Director of Administrative Services, the Controller, and the Assessor Recorder. Any member of the~~
18 ~~Board may deputize, in writing, and filed with the Board, any member of his or her office to serve in his~~
19 ~~or her place on such the Board or in such hearing as he or she may desire. A majority of the Board~~
20 ~~members of the Board shall constitute a quorum.~~

21 (d) ~~The Board, in addition to its several other duties, shall have the power and it shall be its~~
22 ~~duty to hear and determine appeals from the decisions of the Entertainment Commission made upon~~
23 ~~petition for an exception from the regulations. The Board may affirm or reverse such decision by the~~
24 ~~Entertainment Commission or dismiss the appeals therefrom as may be just, and shall prescribe such~~
25 ~~forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the decision~~

1 *by the Entertainment Commission the Board may take such evidence and make such investigation as it*
2 *may deem necessary. It shall give notice of its determinations in writing to the petitioner and shall file a*
3 *copy of each determination with the Entertainment Commission. The determination shall become final*
4 *10 days thereafter. If the Board of Review concurs with the determination of the Entertainment*
5 *Commission, the regulations shall become effective as an order or decision of the Entertainment*
6 *Commission. If the Board of Review overrules the order or decision of the Entertainment Commission,*
7 *the regulations shall not be enforced by the Entertainment Commission.*

8 Section 10. The San Francisco Police Code is hereby amended by repealing Section
9 1070.20:

10 **~~SEC. 1070.20. LIMITED SUSPENSION.~~**

11 *Any permit issued under the terms of this Article may be suspended for a period of 30 days by*
12 *the Entertainment Commission if the Entertainment Commission determines after a noticed hearing*
13 *that violation of the regulations or any provisions of the Municipal Code has occurred.*

14 Section 11. The San Francisco Police Code is hereby amended by adding Section
15 1070.20, to read as follows:

16 **SEC. 1070.20. REVOCATION OF A PERMIT.**

17 *The Entertainment Commission may revoke any permit issued under this Article using the*
18 *procedures and standards set forth in Section 1060.20.4 of this Code for the revocation of Place of*
19 *Entertainment Permits.*

20 Section 12. The San Francisco Police Code is hereby amended by repealing Section
21 1070.20-1:

22 **~~SEC. 1070.20-1. LICENSE FEES.~~**

23 *Every permittee who conducts, permits or assists in conducting or permitting any extended-*
24 *hours premises as defined, shall pay to the Tax Collector an annual license fee, payable in advance.*

1 ~~The license fee prescribed in this Section is due and payable on a calendar year basis starting~~
2 ~~90 days after the effective date of this Article, prorated with regard to the calendar year on a monthly~~
3 ~~basis. Fees for new licenses issued after the first day of January, 1971, or in any subsequent calendar~~
4 ~~year shall be prorated with regard to the calendar year on a monthly basis.~~

5 Section 13. The San Francisco Police Code is hereby amended by repealing Section
6 1070.21:

7 ~~**SEC. 1070.21. STAY ORDERS.**~~

8 ~~Notwithstanding Section 8, Part III, of the San Francisco Municipal Code, the action of the~~
9 ~~Entertainment Commission in suspending a permit for a period not to exceed 30 days shall not be~~
10 ~~suspended by an appeal to the Board of Appeals.~~

11 Section 14. The San Francisco Police Code is hereby amended by amending Section
12 1070.22, to read as follows:

13 **SEC. 1070.22. PERMITS NOT TRANSFERABLE; PERMIT VOID UPON SALE OF**
14 **BUSINESS; PERMIT AMENDMENT REQUIRED TO CHANGE PARTNERS OR OTHER**
15 **OWNERS TRANSFER OF PERMIT.**

16 (a) No Person may transfer a permit issued under this Article to any other Person.

17 (b) If a Permittee Sells the Business, the permit shall be void and the Permittee shall
18 promptly surrender the permit to the Director. If the Permittee fails to surrender the permit to the
19 Director, the Director may, after giving the Permittee notice by mail and electronically of the proposed
20 action and an opportunity to respond, revoke the permit.

21 (c) Notwithstanding Subsection (b) of this Section, a Permittee may change partners,
22 shareholders, or other owners of a Business provided that (1) the sale or other transfer of ownership
23 results in a Person owning no more than 50% of the Business, regardless of the form of ownership, and
24 (2) the Permittee obtains an amendment to the Permit as provided in this Section. If the transfer of
25 ownership does not result in any Person (who did not already have such a percentage interest) having

1 an ownership interest of ten percent or more, the Permittee is not required to obtain a permit
2 amendment but shall be required to report the change under Section 1070.31.

3 (d) A Permittee seeking to amend a permit as required under this Section shall pay the filing
4 fee for Permit Amendment/Additional Partner set forth in Section 2.26 of this Code. The applicant
5 shall provide that portion of the information sought under Section 1070.3 that the Director requires.

6 (e) The Director shall determine within 30 days of the filing of a complete application to
7 amend a permit whether to approve it. The Director shall approve the application unless he or she
8 determines that denial is warranted under Section 1070.5(f) (incorporating the standards set forth in
9 Section 1060.5(f)) and shall notify the Permittee and Manager of the approval by mail or personal
10 delivery and electronically.

11 (f) If the Director determines that disapproval of the application may be warranted, the
12 Director shall schedule a hearing on the matter for the next regularly scheduled meeting of the
13 Entertainment Commission. The Director shall promptly provide written notice of the hearing to the
14 Permittee and the Manager by mail and electronically.

15 (g) The Entertainment Commission shall determine whether to approve the application
16 according to the standards governing the initial application for an Extended-Hours Premises Permit.

17 ~~No permit shall be transferable except with the written consent of the Entertainment~~
18 ~~Commission. An application for such a transfer shall be in writing and shall be accompanied by the~~
19 ~~same filing fee as for an initial application. The written application for such transfer shall contain the~~
20 ~~same information as requested herein for an initial application for such a permit.~~

21 Section 15. The San Francisco Police Code is hereby amended by amending Section
22 1070.24, to read as follows:

23 **SEC. 1070.24. CRIMINAL AND ADMINISTRATIVE PENALTIES-PENALTY.**

24 (a) CRIMINAL PENALTY. Any Person who violates Section 1070.1 of this Article
25 (requiring a valid permit to operate a Business) shall be deemed guilty of an infraction. Any Person

1 who violates Section 1070.1 of this Article more than once in a twelve-month period shall be guilty of
2 an infraction or a misdemeanor, at the discretion of the prosecutor.

3 (1) Each day a Person owns, conducts, operates, or maintains a Business without a valid
4 permit shall constitute a separate violation.

5 (2) A violation that is an infraction is punishable by a fine of not more than one hundred
6 dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation of the same
7 prohibition within one year, and five hundred dollars (\$500) for each additional violation of the same
8 prohibition within one year.

9 (3) A violation that is a misdemeanor is punishable by a fine not to exceed one thousand
10 dollars (\$1000) or by imprisonment in the county jail for no more than six months, or by both such fine
11 and imprisonment.

12 (b) ADMINISTRATIVE PENALTY. The Director may issue administrative citations for the
13 violation of any condition imposed on a permit granted under this Article and any violation of Section
14 1070.28 or 1070.29 (governing Security Plans). San Francisco Administrative Code Chapter 100,
15 "Procedures Governing the Imposition of Administrative Fines," is hereby incorporated in its entirety
16 and shall govern the amount of fees and the procedure for imposition, enforcement, collection, and
17 administrative review of administrative citations issued under this Subsection (b).

18 Any person who violates any provisions of this Article shall be deemed guilty of a misdemeanor
19 and upon conviction such person shall be punished by a fine of not to exceed \$1,000 or by
20 imprisonment in the County Jail for a period not to exceed six months, or by both such fine and
21 imprisonment.

22 Section 16. The San Francisco Police Code is hereby amended by repealing Section
23 1070.26:

24 **~~SEC. 1070.26. MORATORIUM ON THE GRANTING OF PERMITS.~~**

1 ~~Notwithstanding any provision of this Code, neither the Chief of Police, nor the Board of~~
2 ~~Appeals on appeal, shall grant or issue to any person a permit to own, conduct, operate, maintain or to~~
3 ~~participate therein, or to cause or permit to be conducted, operated or maintained, any extended hours~~
4 ~~premises in the Moratorium Area described below in Subsection (a).~~

5 ~~(a) Moratorium Area Described. The "Moratorium Area" includes the area bounded by Bush~~
6 ~~Street to the North, O'Farrell Street to the South, Taylor Street to the East, and Van Ness Avenue to the~~
7 ~~West, including the properties fronting on each side of O'Farrell, Bush, and Taylor Streets, but not~~
8 ~~including the properties fronting Van Ness Avenue.~~

9 ~~(b) Sunset Provision. The moratorium provided by this ordinance shall expire on December~~
10 ~~31, 2000 unless repealed or further extended by ordinance.~~

11 Section 17. The San Francisco Police Code is hereby amended by adding Sections
12 1070.28, 1070.29, 1070.30, 1070.31 and 1070.32, to read as follows:

13 **SEC. 1070.28. APPROVAL REQUIRED FOR SECURITY PLANS.**

14 (a) Each Extended-Hours Premises shall have a Security Plan, as defined in Section
15 1070(l), that has been approved by the Entertainment Commission or by the Executive Director.

16 (b) As of the effective date of this Section, the Entertainment Commission shall not approve
17 any permit or other application relating to a Business unless the applicant has a Security Plan that has
18 been approved by the Commission or the Director as provided in this Article or has submitted a
19 proposed Security Plan with the application.

20 (c) Compliance with the approved Security Plan is a condition of the permit.

21 (d) The Entertainment Commission, the Director and every Permittee shall follow the
22 procedures and standards set forth in Section 1060.31 of this Code governing Security Plans for Places
23 of Entertainment for the approval of Security Plans under this Article. The Entertainment Commission
24 may suspend a permit for the Permittee's failure to comply with the requirements of Section 1060.31 as
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1 required by this Subsection (d), including the failure to submit a proposed Security Plan and the failure
2 to comply with an approved Security Plan.

3 **SEC. 1070.29. DIRECTOR MAY REQUIRE PERMITTEES TO REVISE A SECURITY**
4 **PLAN.**

5 The Director may issue an order directing a Permittee to revise a Security Plan by making such
6 revisions as the Director reasonably determines will address safety and traffic concerns. The
7 procedures and standards set forth in Section 1060.32 of this Code governing Place of Entertainment
8 Permits shall govern the issuance of orders directing a Permittee to revise a Security Plan under this
9 Article. The Entertainment Commission may suspend a permit for the Permittee's failure to comply
10 with the requirements of Section 1060.32 as required by this Section, including the failure to submit a
11 proposed Security Plan and the failure to comply with an approved Security Plan.

12 **SEC. 1070.30. AMENDMENT OF PERMIT TO CHANGE CONDITIONS.**

13 No Permittee shall operate a Business in any manner inconsistent with any condition imposed
14 on the permit. A Permittee may request an amendment to a permit to remove or change a condition by
15 filing a request with the Secretary of the Commission and paying the fee for an Amendment to a Permit
16 required under Police Code Section 2.26. The Entertainment Commission shall conduct a hearing and
17 determine whether to approve the application to amend the permit according to the procedures and
18 standards governing the initial application for Extended-Hours Premises Permits.

19 **SEC. 1070.31. PERMITTEES REQUIRED TO REPORT INFORMATION.**

20 (a) Every Permittee shall provide written notice to the Entertainment Commission within 30
21 days after any of the following occurs:

22 (1) Criminal conviction information for the Permittee, the Manager, the Person who
23 appears on the business registration certificate for the Business, and each Person with authority or
24 control over the Business insofar as the conviction of any such Person arose after the filing of the
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1 initial permit application, to the extent that the conviction falls within the categories specified in
2 Sections 1060.3(j) and (k) as incorporated by Section 1070.3.

3 (b) Any corporation, other than a publicly traded corporation, holding a permit granted
4 under this Article shall maintain a record of its shareholders at the principal office of the corporation
5 in California and the record of its shareholders shall be available to the Entertainment Commission for
6 inspection. The corporation shall report within 30 days the issuance or transfer of any shares of stock
7 to any Person where the issuance or transfer results in the Person owning ten percent or more of the
8 corporate stock. A "publicly traded" corporation is a company that has issued securities through an
9 initial public offering which are traded on at least one stock exchange or over-the-counter market.

10 **SEC. 1070.32. APPEALS TO BOARD OF APPEALS.**

11 (a) The following actions taken under this Article may be appealed to the Board of Appeals.
12 Any such appeal shall be filed within ten days from the date of the decision, as provided in Section 8 of
13 the San Francisco Business and Tax Regulations Code: The granting or denial of a permit, including a
14 conditionally granted permit, or an amendment to a permit; the suspension or revocation of a permit;
15 and the denial by the Entertainment Commission of an exception from the regulations under Section
16 1070.19.

17 (b) Notwithstanding the provisions of Subsection (a) of this Section, the Permittee or permit
18 applicant may seek immediate judicial review pursuant to California Code of Civil Procedure Section
19 1085 or Section 1094.8, as these provisions may be amended, including any successor provisions, or
20 any other procedure provided by law. The Permittee or permit applicant is not required to exhaust his
21 or her administrative remedies before the Entertainment Commission or before the Board of Appeals.

22 Section 18. In undertaking the enforcement of this ordinance, the City is assuming an
23 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its
24 officers and employees, an obligation for breach of which it is liable in money damages to any
25 person who claims that such breach proximately caused injury.

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

By: _____
PAULA JESSON
Deputy City Attorney