

FILE NO. 041148

ORDINANCE NO. 262-04

1 [Dance and Place of Entertainment Permits-security requirements, increased penalty for
2 violation.]

3 **Ordinance amending San Francisco Police Code Sec. 1022 to define "security plan";**
4 **amending Police Code Sec. 1023 to require applicants for dance permits to have a**
5 **security plan, and to require owners or managers of places that are rented to persons**
6 **planning to use the facility for a dance to inform such persons that a permit is required**
7 **for such activity; amending Police Code Sec. 1027 to make the violation of Secs. 1023**
8 **through 1026 an infraction or a misdemeanor, to increase the maximum penalty for**
9 **violation thereof to \$1000, and subject to revocation of the permit; amending Police**
10 **Code Sec. 1060 to define "security plan"; amending Police Code Sec. 1060.5 to revise**
11 **determination of application criteria to require a security plan; amending Police Code**
12 **Sec. 1060.25 to increase the maximum penalty for violation of Article 15.1 to an**
13 **infraction or a misdemeanor, to increase the maximum penalty for violation thereof to**
14 **\$1000, and subject to revocation of the permit; adding Police Code Sec. 1060.29 to**
15 **require one night event permits for one night events; and amending Police Code Sec.**
16 **2.26 to include one night events under the schedule of permits and filing fees.**

17 Note: Additions are single-underline italics Times New Roman;
18 deletions are ~~strikethrough italics Times New Roman~~.
19 Board amendment additions are double underlined.
20 Board amendment deletions are ~~strikethrough-normal~~.

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

22 Section 1. The San Francisco Police Code is hereby amended by amending Section
23 1022, to read as follows:

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1 **SEC. 1022. DEFINITIONS.**

2 Unless the context specifically indicates otherwise, the following terms, as used in this
3 Chapter, shall mean or include:

4 (a) "Dance." Any gathering of persons in or upon any premises, other than a private
5 home or residence or a class in which instruction in dancing is given for hire, where dancing is
6 participated in. Dances, as defined herein, shall be classified in types as follows: "General"
7 shall include any dance to which persons 18 years of age or older are admitted. "Special"
8 shall include any dance to which no persons 15 years of age or younger or 21 years of age or
9 older are admitted as participants.

10 (b) "Dance Hall." Any building or place in which a dance is held.

11 (c) "Person." Includes any person, co-partnership, firm, corporation, association,
12 club, or any legal entity.

13 (d) "Security Plan." A plan that (i) provides at least 1 security guard for 100 persons in
14 attendance at the dance, (ii) secures a 50 foot perimeter in all directions around the location of the
15 dance hall to prevent injury to persons and/or damage to property, and (iii) provides for the orderly
16 disbursement of persons and traffic from the dance hall. The Entertainment Commission, in
17 consultation with the San Francisco Police Department, shall develop rules and regulations
18 implementing this section.

19 Section 2. The San Francisco Police Code is hereby amended by amending Section
20 1023, to read as follows:

21 **SEC. 1023. PERMIT REQUIRED; *EXCEPTION*.**

22 (a) It shall be unlawful for any person to own, conduct, operate, or maintain, or to
23 cause or to permit to be conducted, operated, or maintained any dance hall, or

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1 **(b)** to conduct, promote, or sponsor or to cause or to permit to be conducted,
2 promoted, or sponsored any dance within the City and County of San Francisco without first
3 having obtained a dance permit from the Entertainment Commission.

4 **(c)** Any place or premises where a dance is to be held must conform to all existing health,
5 safety, and fire ordinances of the City and County of San Francisco. Proof of such shall be provided by
6 permit applicant at the time of application for a dance permit.

7 **(d)** Any place or premises where a dance is to be held must have a Security Plan, except
8 Dances of a bona fide social character, to which admission is limited strictly on invitation of
9 the person acting as host, and for which no fee, either by way of admission or in any other
10 manner, is charged.. Proof of such plan shall be provided by permit applicant at the time of
11 application for a dance permit.

12 **(e)** It shall be the responsibility of any owner or manager of any building or place that rents
13 such a facility for use by others to inform any person planning to use the facility for a dance of the
14 requirement to obtain a dance permit pursuant to this section.

15 **(f)** This permit requirement does not apply if the location at which the dance is
16 being held has a place of entertainment permit, the permit is valid, and the place of
17 entertainment provides free drinking water as required by Section 1070.27.

18 ~~*Any place or premises where a dance is to be held must conform to all existing health, safety,*~~
19 ~~*and fire ordinances of the City and County of San Francisco.*~~

20 Section 3. The San Francisco Police Code is hereby amended by amending Section
21 1027, to read as follows:

22 **SEC. 1027. PENALTY.**

23 Any person who *shall* violate_s any of the provisions of Sections 1023 to and including
24 1026 of this Chapter shall be guilty of an infraction. Any person who violates Sections 1023
25 through 1026 more than once in a 12 month period shall be guilty of an infraction or a

1 misdemeanor, at the discretion of the prosecutor. A violation which is an infraction is punishable by
2 a fine of not more than \$100. A violation which is a misdemeanor is punishable by and, upon
3 conviction thereof, shall be subject to a fine of not less than \$100 \$500 and not more than \$500
4 \$1000 or by imprisonment in the jail of the City and County for a term of not more than six
5 months, or by both such fine and imprisonment.

6 Additionally, any violation of the provisions of Sections 1023 to and including 1026 of this
7 Chapter or Section 3305 of Article 33 by a permittee hereunder, or by a person in charge of the event,
8 shall be deemed cause to revoke the dance permit, or to revoke or suspend a permit granted pursuant to
9 Police Code Article 15.1 subject to a hearing by the Entertainment Commission. In the alternative, any
10 violation of the provisions of Sections 1023 to and including 1026 of this Chapter or Section 3305 of
11 Article 33 of this Code by a permittee hereunder or by a person in charge of the dance hall premises
12 shall be deemed to be disorderly and improper conduct as that term is used in Section 3.537 of the
13 Charter of the City and County of San Francisco, and the Entertainment Commission may, after
14 hearing, revoke said permittee's permit pursuant to Section 3.537 of said Charter; or, in lieu thereof,
15 may, after hearing, suspend said permit for such length of time as it deems proper.

16 Section 4. The San Francisco Police Code is hereby amended by amending Section
17 1060, to read as follows:

18 **SEC. 1060. DEFINITIONS.**

19 For the purpose of this Article, the following words and phrases shall mean and
20 include:

21 (a) "Place of Entertainment." Every premises to which patrons or members are
22 admitted which serves food, beverages, or food and beverages, including but not limited to
23 alcoholic beverages, for consumption on the premises and wherein entertainment as defined
24 in Subsections (b), (c), or (e) is furnished or occurs upon the premises.

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1 (b) "Entertainment." Any act, play, review, pantomime, scene, song, dance act,
2 song and dance act, or poetry recitation, conducted or participated in by any professional
3 entertainer in or upon any premises to which patrons or members are admitted.

4 "Entertainment," in addition, is defined to mean and include the playing upon or
5 use by any professional entertainer of any instrument that is capable of or can be used to
6 produce musical sounds or percussion sounds, including but not limited to, reed, brass,
7 percussion or string-like instruments, or recorded music presented by a live disc jockey on the
8 premises.

9 (c) "Entertainment," Continued. "Entertainment" also includes a fashion or style
10 show in which the models are professional entertainers, except when conducted by a bona
11 fide nonprofit club or organization as a part of the social activities of such club or organization,
12 and when conducted solely as a fundraising activity for charitable purposes.

13 (d) "Professional Entertainer." A person who is compensated for his or her
14 performance.

15 (e) "Entertainment," Continued; Exhibition of Human Body. "Entertainment" also
16 includes the act of any female professional entertainer, while visible to any customer, who
17 exposes the breast or employs any device or covering which is intended to simulate the
18 breast, or wears any type of clothing so that the breast may be observed.

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

24 (g) "Operator." Any person operating a place of entertainment in the City and
25 County of San Francisco, including, but not limited to, the owner or proprietor of such

1 premises, lessee, sublessee, mortgagee in possession, permittee or any other person
2 operating such place of entertainment or amusement.

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

10 (i) "Admission Charge." Any charge for the right or privilege to enter any place of
11 entertainment including a minimum service charge, a cover charge or a charge made for the
12 use of seats and tables, reserved or otherwise.

13 (j) "Tax Collector." Tax Collector of the City and County of San Francisco.

14 (k) "Security Plan." A plan that (i) provides at least 1 security guard for every 100 persons
15 authorized by the Occupancy Permit, (ii) secures a 50 foot perimeter in all directions around the
16 location of the Place of Entertainment to prevent injury to persons and/or damage to property, and (iii)
17 provides for the orderly disbursement of persons and traffic from the Place of Entertainment. The
18 Entertainment Commission, in consultation with the San Francisco Police Department, shall
19 develop rules and regulations implementing this section.

20 Section 5. The San Francisco Police Code is hereby amended by amending Section
21 1060.5, to read as follows:

22 **SEC. 1060.5. DETERMINATION OF APPLICATION.**

23 (a) When an application is filed for a new permit under this Article, the
24 Entertainment Commission shall fix a time and place for a public hearing thereon to determine
25 whether issuance of the permit would result in any of the conditions set forth in Subsection

1 (e). The hearing must be held within 45 working days of the date the completed application is
2 received.

3 (b) At the time of filing of an application, the applicant shall notify the Entertainment
4 Commission of any outstanding requests for permits or approvals from other City departments
5 relating to the premises of the proposed place of entertainment. The Entertainment
6 Commission shall notify those departments of the filing of the application. Those departments
7 shall complete all necessary inspections and report their determinations to the Entertainment
8 Commission within 20 working days of the filing of the application.

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

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

22 (e) No time limit shall commence running until the submission of a completed
23 application. Upon the applicant's request, the Entertainment Commission shall continue the
24 hearing to allow the applicant opportunity to comply with the requirements of this Article or any
25 other state or local law. Notice of the date of any continuance of the hearing shall be posted in the

1 same place and manner as the original notice for not less than seven (7) days. Upon the applicant's
2 request, the Entertainment Commission shall also issue a conditional approval of the permit
3 application, pending approval of the permit by other City agencies, if sufficient information has
4 been provided to allow for adequate evaluation of the proposal and if grounds for denial, as
5 set forth in Subsection (f), are not present.

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

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

12 (ii) The building, structure, equipment or location of the proposed place of
13 entertainment cannot accommodate the type and volume of vehicle and pedestrian traffic
14 anticipated; or

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

19 (iv) The building, structure, or location of the proposed one night event does not
20 have an adequate security plan as required by this Section.

21 (g) An applicant whose application for a permit has been denied pursuant to this
22 Section may seek immediate judicial review pursuant to Code of Civil Procedure Section 1085
23 or Section 1094.5. The applicant is not required to exhaust his or her administrative remedies
24 before the Board of Appeals.

1 Section 6. The San Francisco Police Code is hereby amended by amending Section
2 1060.25 to read as follows:

3 **SEC. 1060.25. PENALTY.**

4 Any person who violates any provisions of this Article shall be deemed guilty of an
5 infraction. Any person who violates this Article more than once in a 12 month period shall be guilty of
6 an infraction or a misdemeanor, at the discretion of the prosecutor. A violation which is an
7 infraction is punishable by a fine of not more than \$100. A violation which is a misdemeanor is
8 punishable and upon conviction such person shall be punished by a fine of not to exceed \$500
9 \$1000 or by imprisonment in the County Jail for a period not to exceed six months, or by both
10 such fine and imprisonment.

11 Additionally, any violation of the provisions of this Article Section 3305 of Article 33 by a
12 permittee hereunder shall be deemed cause to or to revoke or suspend a permit pursuant to Secs.
13 1060.20 and/or 1060.23 of this Article.

14 Section 7. The San Francisco Police Code is hereby amended by adding Section
15 1060.29 to read as follows:

16 **Sec. 1060.29. One Night Event Permit.**

17 (a) It shall be unlawful for any person without a valid Place of Entertainment permit to
18 conduct, promote, or sponsor or to cause or to permit to be conducted, promoted, or sponsored any one
19 night occurrence of "entertainment" as defined by this Article without first obtaining a One Night
20 Event permit from the Entertainment Commission.

21 (b) Any place or premises for which a permit to operate a one night event is sought must
22 conform to all existing health, safety, zoning and fire ordinances of the City and County of San
23 Francisco; must have a valid public eating place permit from the Department of Public Health, and is
24 subject to all other requirements of this Article. The Entertainment Commission may issue a permit
25 under this Section conditional upon the applicant receiving the other required permits.

1 (c) Every person desiring a permit pursuant to this Article shall file an application with the
2 Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a
3 filing fee. Every application for a permit under this Article shall be verified as provided in the
4 California Code of Civil Procedure for the verification of pleadings.

5 (d) Any place or premises where a one night event is to be held must have a Security Plan.
6 Proof of such shall be provided by permit applicant at the time of application for a one night event
7 permit.

8 (e) The Entertainment Commission shall grant a permit pursuant to this Article unless it
9 finds that:

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

14 (ii) The building, structure, equipment or location of the proposed one night event
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 one night event
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 (iv) The building, structure, or location of the proposed one night event does not
20 have an adequate security plan as required by this Section.

21 (f) An applicant whose application for a permit has been denied pursuant to this Section
22 may appeal to the Board of Permit Appeals. The applicant is required to exhaust his or her
23 administrative remedies before the Board of Appeals.

24 Section 8. The San Francisco Police Code is hereby amended by amending Section
25 2.26, to read as follows:

1 **SEC. 2.26. SCHEDULE OF PERMITS AND FILING FEES.**

2 The following filing fees, payable in advance to the City and County of San Francisco,
3 are required when submitting applications for permits to the Police Department or
4 Entertainment Commission:

5	TYPE OF PERMIT	FILING FEE
6	Permit Amendment/Additional Partner	\$ 81
7	Amusement Park	871
8	Antique Shop	558
9	Auto Wrecker	664
10	Ball or Ring Throwing Games	477
11	Balloon and Kite Advertising	367
12	Billiard Parlor	456
13	Bingo Games	112
14	Amendment to Permit	112
15	Circus	648
16	Closing-Out Sale	413
17	Dance Hall Keeper	1,401
18	Amendment to Permit	660
19	One Night Dance	40
20	Dealer in Firearms and/or Ammunition	961
21	Renewal	218
22	Discharge of Cannon	400
23	Distributor of Advertising	
24	Class A	524
25	Class B	459

1	Driverless Auto Rental	631
2	Encounter Studio	
3	Owner	725
4	Employee	202
5	Escort Service	
6	Owner	709
7	Employee	202
8	Extended Hours Permit	1,401
9	Amendment to Permit	660
10	Fortuneteller	357
11	Funeral Procession Escort	224
12	Insignia and Uniform	13
13	General Soliciting Agent	252
14	Itinerant Show	680
15	Itinerant Show/Nonprofit [fee set by Police Code Section 1017.2]	100
16	Junk Dealer	945
17	Junk Gatherer	
18	Resident	439
19	Nonresident	370
20	Licensed Tour Guide	272
21	Loudspeaker	
22	Commercial	416
23	Noncommercial	49
24	Vehicle	416
25	Masked Ball	779

1	Massage Establishment	1,684
2	Masseur/Masseuse	202
3	Trainee	202
4	Mechanical Amusement Devices	568
5	Mechanical Contrivance	568
6	Miniature Golf Course	586
7	Mobile Caterer	775
8	Additional Stop	73
9	Assistant	73
10	Transfer of Stop	73
11	Museum	645
12	Nude Models in Public Photographic Studio	
13	Owner	704
14	Employee	202
15	Off-Heliport Landing Site	477
16	<u>One Night Event</u>	<u>255</u>
17	Outcall Massage	462
18	Pawnbroker	763
19	Peddler	
20	Fish, Vegetables, Fruit	525
21	Food for Human Consumption	525
22	Nonfood	330
23	Employee	77
24	Pedicab Driver	77
25	Pedicab Owner	

1	First Pedicab	372
2	Each Additional Pedicab	84
3	Photographer, Public Place	
4	Owner	429
5	Solicitor	77
6	Photographic Solicitor	
7	Owner	429
8	Employee	77
9	Place of Entertainment	1,401
10	Amendment to Permit	660
11	Poker	894
12	Amendment to Permit	79
13	Public Bathhouse	1,122
14	Public Outcry Sales	716
15	Pushcart Peddler	594
16	Recreational Equipment Vendor	408
17	Rodeo Exhibition/Wild West Show	651
18	Second Hand Dealer	558
19	Second Hand Dealer, Auto Accessories	558
20	Shooting Gallery	723
21	Skating Rink	693
22	Street Photographer	
23	Owner	379
24	Solicitor	231
25	Tow Car Driver	198

1	Tow Car Firm	575
2	Trade-In Dealer	713
3	Valet Parking	
4	Fixed Location	535
5	Annual Special Event	350
6	Vehicle for Hire, Nonmotorized	644

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

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 10 By: 
 VIRGINIA DARIO ELIZONDO
 Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 041148

Date Passed:

Ordinance amending San Francisco Police Code Sec. 1022 to define "security plan"; amending Police Code Sec. 1023 to require applicants for dance permits to have a security plan, and to require owners or managers of places that are rented to persons planning to use the facility for a dance to inform such persons that a permit is required for such activity; amending Police Code Sec. 1027 to make the violation of Secs. 1023 through 1026 an infraction or a misdemeanor, to increase the maximum penalty for violation thereof to \$1000, and subject to revocation of the permit; amending Police Code Sec. 1060 to define "security plan"; amending Police Code Sec. 1060.5 to revise determination of application criteria to require a security plan; amending Police Code Sec. 1060.25 to increase the maximum penalty for violation of Article 15.1 to an infraction or a misdemeanor, to increase the maximum penalty for violation thereof to \$1000, and subject to revocation of the permit; adding Police Code Sec. 1060.29 to require one night event permits for one night events; and amending Police Code Sec. 2.26 to include one night events under the schedule of permits and filing fees.

October 19, 2004 Board of Supervisors — AMENDED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, McGoldrick, Peskin, Sandoval

October 19, 2004 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, McGoldrick, Peskin, Sandoval

October 26, 2004 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, McGoldrick, Peskin, Sandoval

