

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

2

3 **Ordinance amending the San Francisco Police Code Sections 1070, 1070.1, 1070.2,**
4 **1070.3, 1070.5, 1070.7, 1070.8, 1070.13, 1070.15, 1070.16, 1070.17, 1070.19, 1070.20,**
5 **1070.22, 1070.23, 1070.24, and 1070.27; amending Section 1070.20-1 and renumbering it**
6 **as Section 1070.20-2; repealing Sections 1070.12, 1070.21, and 1070.26; and adding a**
7 **new Section 1070.20-1 and Sections 1070.28 and 1070.29, relating to the application,**
8 **approval, amendment, suspension, revocation, and transfer of Extended-Hours**
9 **Premises Permits, including changes in penalties for violations of law.**

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.
13 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 Section
15 1070, to read as follows:

16 **SEC. 1070. DEFINITIONS.**

17 For the purpose of this Article, the following words and phrases shall mean and
18 include:

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

24 (1) Dance Academies. Extended-Hours Premises ~~An extended-hours premises~~ shall also
25 include a dance academy wherein students are admitted between ~~the hours of~~ 2:00 a.m. and

1 6:00 a.m., and instruction is given in ballroom or other types of dancing, whether ~~given to the~~
2 students in groups or individually.

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

10 ~~"Entertainment," in addition, is defined to mean and include the playing upon or use of any~~
11 ~~instrument that is capable of or can be used to produce musical sounds or percussion sounds, including~~
12 ~~but not limited to, reed, brass, percussion or string like instruments; provided, further, that~~
13 ~~"entertainment" is defined to mean any instrument or device capable of producing or reproducing~~
14 ~~sound, which device is located in a premises open between the hours of 2:00 a.m. and 6:00 a.m. The~~
15 ~~term "Entertainment" means any of the following, except when conducted as part of the social or~~
16 ~~educational activities of a bona fide nonprofit club or organization or any elementary or secondary~~
17 ~~school (kindergarten through twelfth grade), or conducted in a private residence:~~

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

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

23 (3) A fashion or style show.

24

25

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

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

9 ~~(d)(e)~~—Operator. Any person operating an extended hours premises in the City and County of
10 San Francisco, including, but not limited to, the owner or proprietor of such premises, lessee,
11 sublessee, mortgagee in possession, licensee or any other person operating such place of entertainment
12 or amusement. "Permittee." The person to whom a permit has been issued under this Article.

13 ~~(e)(f)~~—Bona Fide Nonprofit Club or Organization. Any fraternal, charitable, religious, ~~or~~
14 benevolent, or ~~any~~ other nonprofit organization *having a regular membership association primarily*
15 for mutual social, mental, political, ~~or and~~ civil welfare, to which admission is limited to
16 members and guests ~~and if the~~ revenue accruing therefrom ~~is to be~~ used exclusively for the
17 benevolent purpose of said ~~organization and which~~ organization or agency, ~~and if the~~
18 organization or agency is exempt from taxation under the Internal Revenue laws of the United
19 States as a bona fide fraternal, charitable, religious, benevolent, or nonprofit organization.

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

23 ~~(f)(h)~~—Tax Collector. Tax Collector of the City and County of San Francisco.

24 ~~(g)(i)~~—"Bona Fide Public Eating Place." A place ~~which is~~ regularly and in bona fide
25 manner used ~~and kept open~~ for the serving of meals ~~to guests~~ for compensation, with which has

1 suitable kitchen facilities ~~connected therewith,~~ containing conveniences for cooking an
2 assortment of foods ~~which may be required~~ for ordinary meals, ~~the~~ The kitchen ~~of which~~ must be
3 kept in a sanitary condition with ~~the~~ proper food amount of refrigeration, ~~for keeping of food on~~
4 ~~said premises~~ and must comply with all ~~the~~ regulations of the Department of Public Health.

5 "Meals" means the usual assortment of foods commonly ordered at various hours of the day, ~~;~~
6 ~~the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance~~
7 ~~with this requirement. "Guests" shall mean persons who, during the hours when meals are regularly~~
8 ~~served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order~~
9 ~~and obtain at such time, in good faith, a meal therein. Nothing in this Section, however, shall be~~
10 ~~construed to require that any food be sold or purchased with any beverage.~~

11 (h) "Security Plan." A plan that (i) provides at least one security guard for every hundred
12 persons authorized by the Occupancy Permit, (ii) secures a fifty-foot perimeter in all directions around
13 the location of the Extended-Hours Premises to prevent injury to persons and/or damage to property,
14 and (iii) provides for the orderly dispersal of persons and traffic from the Extended-Hours Premises.
15 The Entertainment Commission, in consultation with the San Francisco Police Department, may
16 develop rules and regulations implementing this section.

17 (i) "Director." The Executive Director of the Entertainment Commission or a person
18 designated by the Director to act on the his or her behalf.

19 Section 2. The San Francisco Police Code is hereby amended by amending Section
20 1070.1, to read as follows:

21 **SEC. 1070.1. PERMIT REQUIRED.**

22 It shall be unlawful for any person to own, conduct, operate, maintain ~~or to participate~~
23 ~~therein,~~ or to cause or permit to be conducted, operated, or maintained, any Extended-Hours
24 Premises ~~extended hours premises~~ in the City and County of San Francisco without first having
25 obtained a permit from the Entertainment Commission.

1 Any place or premises where a permit to operate is sought must conform to all existing
2 health, safety, and fire ordinances of the City and County of San Francisco, and must have a
3 valid public permits as required by state and local law ~~eating place permit from the Department of~~
4 ~~Public Health. The Entertainment Commission may issue a permit under this Section conditional upon~~
5 ~~the applicant receiving the other required permits.~~

6 Any permit granted by the Entertainment Commission, conditional upon the applicant
7 ~~obtaining~~ ~~receiving~~ other required permits, may be appealed to the Board of Appeals. Such
8 appeal must be filed within ~~ten~~ 10 days of the final decision of the Entertainment Commission
9 issuing the conditional permit. Notwithstanding any provision to the contrary in Article 1 of the San
10 Francisco Business and Tax Regulations Code, the provisions of this Article shall govern the approval,
11 transfer, suspension, and revocation of permits by the Entertainment Commission and the Director, as
12 well as the Board of Appeals when the decision is appealed to that body.

13 Any conditional permit granted by the Entertainment Commission will expire nine
14 months from the date of the Commission's final decision ~~of the Entertainment Commission~~, if all
15 ~~the~~ other required permits have not been received.

16 No person may operate an Extended-Hours Premises for which a conditional permit has been
17 issued unless and until all required permits have been obtained. The Entertainment Commission may
18 rescind conditional approval of a permit if the conditional permittee operates or allows the operation
19 of an Extended-Hours Premises before obtaining all required permits. Rescission of conditional
20 approval shall not prejudice the right of a conditional permittee thereafter to apply for a permit.

21 No person may operate an Extended-Hours Premises for which a permit has been granted after
22 it is revoked or rescinded, or for any period of time during which the permit has been suspended or is
23 otherwise invalid under this Article or any other law.

24 Section 3. The San Francisco Police Code is hereby amended by amending Section
25 1070.2, to read as follows:

1 **SEC. 1070.2. FILING.**

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

5 Section 4. The San Francisco Police Code is hereby amended by amending Section
6 1070.3, to read as follows:

7 **SEC. 1070.3. APPLICATION FORM.**

8 ~~Operators under any permit issued pursuant to this Article shall be limited to the terms of the~~
9 ~~application.~~ Except as otherwise provided herein, an application for a permit pursuant to the
10 provisions of this Article shall specify:

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

13 (b) The name and ~~proposed business~~ address of the applicant. If the applicant is a
14 corporation, the name of the corporation shall be set forth exactly as shown in its articles of
15 incorporation; and the applicant shall also set forth the date and place of incorporation; the
16 names and residence addresses of each of the officers, directors, and each stockholder
17 owning ten percent or more ~~more than 10 percent~~ of the stock of the corporation. If the applicant
18 is a partnership, the application shall set forth the name and residence address of each of the
19 partners, including limited partners. If one or more of the partners is a corporation, the
20 provisions of this Section pertaining to a corporate applicant apply. The applicant must also
21 identify the person or persons to whom the Department of Alcoholic Beverage Control has issued a
22 license for the premises.

23 (c) ~~Whether or not the applicant or any officer or director or member of applicant, as the~~
24 ~~case may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to~~
25 ~~the foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10~~

1 ~~percent of the stock of such corporation has ever been convicted of any crime except misdemeanor~~
2 ~~traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be~~
3 ~~made giving the name of the person so convicted, the place and court in which the conviction was had,~~
4 ~~the specific charge under which the conviction was obtained, and the sentence imposed as the result of~~
5 ~~said conviction. (d) The name(s) and address(es) names and addresses of the persons person(s) who~~
6 ~~will have authority or control over the proposed Extended-Hours Premises place for which the~~
7 ~~permit is requested and a brief statement of the nature and extent of such authority or and~~
8 control.

9 (d) The name(s) and address(es) of the person(s) who appear on any business registration
10 certificate for the premises.

11 (e) The convictions for the person(s) whose disclosure is required under Subsections (b), (c)
12 or (d) for any of the following offenses: bribery, forgery, perjury, prostitution, gambling, unlawful
13 possession of a firearm, or furnishing alcohol to minors.

14 (f) The convictions for the person(s) whose disclosure is required under Subsections (b), (c)
15 or (d) for any other offense which is a felony or misdemeanor under the laws of this state, and criminal
16 convictions in another jurisdiction which, if committed in this state, would be a felony or misdemeanor,
17 provided that this Subsection (f) applies only to offenses arising out of the operation of an Extended-
18 Hours Premises, dance hall, cabaret, or an establishment that serves food or beverages.

19 (g) For the information required by Subsections (e) and (f), a statement setting forth for
20 each person all charges under which convictions were obtained, any sentence imposed as the result of
21 the convictions, the date of each conviction, and location and name of the court for each conviction.

22 ~~(e) — Such information pertinent to the operation of the proposed activity, including~~
23 ~~information as to management, authority, control, financial agreements, and lease arrangements, that~~
24 ~~is reasonably related to the factual determinations this ordinance empowers the Chief to make in~~
25 ~~reviewing and acting upon permit applications as the Chief of Police may require of an applicant in~~

1 ~~addition to the other requirements of this Section. The foregoing examples are in explanation and not in~~
2 ~~limitation of the information which the Entertainment Commission may require.~~

3 ~~(h) (f)~~ A business plan for the proposed Extended-Hours Premises ~~extended hours~~
4 ~~premises~~, specifying the days and hours of operation;~~;~~ the number of patrons;~~;~~ the number~~s~~ of
5 employees and their duties;~~;~~ ~~the identity of the manager or managers who shall be on premises~~
6 ~~during all hours of operation~~ the names, telephone numbers, cell phone numbers, email addresses, fax
7 numbers and any other contact information for the day-to-day managers of the business; ~~the types or~~
8 ~~classes of entertainment (in terms of the types of instruments, numbers of performers and sound levels)~~
9 ~~to be provided~~, and the amount of parking, both on-site and off-site, to be provided. If sound
10 amplification is to be used, the plan shall also include a specific description of the
11 amplification system.

12 ~~(i)(g)~~ (1) The address to which notice, when required, is to be sent or mailed, and the
13 name and address of a person authorized to accept service of process for the permittee, if not
14 otherwise set forth herein and (2) contact information such as telephone and cell phone numbers,
15 email addresses, and fax numbers for receipt of notice of proposed action under this Article for the
16 suspension of a permit or for notice of proposed action or requirements regarding a security plan.

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

18 ~~(j)~~ A proposed security plan. (See definition in Section 1070(h).)

19 ~~(k)(i)~~ The Entertainment Commission may require further information as ~~it deems~~
20 ~~necessary~~ to a Place of Entertainment's financial and lease arrangements, and management, authority,
21 or operational control, when necessary for its review of the application.

22 Section 5. The San Francisco Police Code is hereby amended by amending Section
23 1070.5, to read as follows:

1 **SEC. 1070.5. DETERMINATION OF APPLICATION.**

2 (a) When an application is filed for an Extended-Hours Premises Permit ~~a new permit~~
3 under this Article, the Entertainment Commission shall fix a time and place for a public
4 hearing thereon to determine whether issuance of the permit would result in any of the
5 conditions set forth in Subsection (f) ~~(e)~~. The hearing must be held, and a determination made,
6 within forty-five City business ~~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
9 relating to the premises of the proposed Extended-Hours Premises ~~extended hours premises~~. The
10 Entertainment Commission shall notify those departments of the filing of the application.
11 Those departments shall complete all necessary inspections and report their determinations
12 to the Entertainment Commission within twenty City business ~~20 working~~ days of the filing of the
13 application.

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

24 (d) At the hearing, the applicant and any other interested party, including the Police
25 Department or any other public agency, shall be allowed to introduce evidence and present

1 argument. The Entertainment Commission shall make a final decision upon the application at
2 a public hearing, and shall notify the applicant, and any other interested party who has made
3 a written request, of the final decision by United States First Class Mail ~~first class mail~~.

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

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

14 ~~(1)(i)~~ The ~~building, structure, equipment or location of the~~ proposed Extended-Hours
15 Premises ~~do extended hours premises does~~ not comply with or fails to meet ~~all of~~ the health,
16 zoning, fire, and safety requirements or standards of all ~~the~~ laws of the State of California and
17 ~~or~~ ordinances of the City and County of San Francisco applicable to such business operation;
18 or

19 ~~(2)(ii)~~ The ~~building, structure, equipment or location of the~~ proposed Extended-Hours
20 Premises ~~extended hours premises~~ cannot adequately accommodate the type and volume of
21 vehicle and pedestrian traffic anticipated; or

22 ~~(3)(iii)~~ The ~~building, structure, equipment or location of the~~ proposed Extended-Hours
23 Premises ~~extended hours premises~~ lack adequate safeguards to prevent emissions of noise,
24 glare, dust, and odor that substantially interfere with the public health, safety, and welfare or
25 the peaceful enjoyment of neighboring property; or

1 (4)(iv) The permit applicant has not provided a security plan that adequately addresses the
2 need to protect the safety of persons and property and to provide for the orderly dispersal of persons
3 and traffic from the Extended-Hours Premises.

4 (5) The applicant, any general partner, any officer or director, or any person with authority
5 to participate directly and regularly in management of the business has been convicted of or has
6 entered a plea of guilty or no contest within three years preceding the date that the application is filed
7 to either a felony or two misdemeanor violations of one or more of the following offenses: bribery,
8 forgery, perjury, prostitution, gambling, unlawful possession of a firearm, or furnishing alcohol to
9 minors.

10 (6) The applicant, any general partner, any officer or director, or any person with authority
11 to participate directly and regularly in management of the business has been convicted or has entered a
12 plea of guilty or no contest within three years preceding the date that the application is filed to any
13 offense not set forth in Subsection (f)(5) of this Section which is a felony under the laws of this state, or
14 a criminal conviction in another jurisdiction which, if committed in this state, would be a felony or
15 misdemeanor, provided that this Subsection applies only to offenses arising out of the operation of a
16 place of entertainment, extended-hours premises, dance hall, cabaret, or an establishment that serves
17 food or beverages.

18 (g) An applicant whose application for a permit or an amendment to a permit has been
19 denied ~~pursuant to this Section~~ may seek immediate judicial review pursuant to California Code
20 of Civil Procedure Section 1085 or Section ~~1094.5~~ 1094.8, as these provisions may be amended,
21 including any successor provisions, or any other procedure provided by law. The applicant is not
22 required to exhaust his or her administrative remedies before the Board of Appeals.

23 (h) If the Entertainment Commission does not act within the time limit required by Section
24 1070.5(a), the Extended-Hours Premises Permit will be deemed approved.

1 Section 6. The San Francisco Police Code is hereby amended by amending Section
2 1070.7, to read as follows:

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

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

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

13 Section 7. The San Francisco Police Code is hereby amended by amending Section
14 1070.8, to read as follows:

15 **SEC. 1070.8. SOLICITATION OF TRADE.**

16 No ~~permittee operator of an extended hours premises~~ shall permit or allow or cause any
17 employee of the Extended-Hours Premises ~~extended hours premises~~ to solicit by personal
18 solicitation or otherwise, or by means of any device whereby the voice of the person soliciting
19 can be heard at or near such entrance.

20 Section 8. The San Francisco Police Code is hereby amended by repealing Section
21 1070.12:

22 ~~SEC. 1070.12. MISCELLANEOUS RULES.~~

23 ~~No professional entertainer or employee may dance, unnecessarily converse, or associate with~~
24 ~~any customer on the premises in any extended hours premises; provided, however, that a regularly~~
25 ~~scheduled audience participation type of entertainment may be presented during the time slated and in~~

1 ~~the manner described in an advertisement posted in a regularly printed program. Provided, further,~~
2 ~~that a copy of said advertisement shall be received by the Entertainment Commission 24 hours prior to~~
3 ~~the conducting of said audience participation entertainment.~~

4 Section 9. The San Francisco Police Code is hereby amended by amending Section
5 1070.13, to read as follows:

6 **SEC. 1070.13. BOOTHS.**

7 ~~No permittee~~ It shall be unlawful for any person operating an extended hours premises under
8 ~~the provisions of this Article, in the City and County of San Francisco, or any agent, employee or~~
9 ~~representative thereof, shall~~ to erect, construct, maintain, or cause or permit to be erected,
10 constructed or maintained, within such Extended-Hours Premises ~~extended hours premises~~ any
11 private rooms, booths, enclosures, ~~or~~ compartments, ~~or any~~ closed stalls, or ~~any~~ alcoves of
12 any nature, ~~so~~ arranged so that the inner portion of the same shall not at all times be visible
13 from any point in the ~~extended hours~~ premises where such rooms, booths, enclosures,
14 compartments, stalls, or alcoves should be reasonably within view.

15 Section 10. The San Francisco Police Code is hereby amended by amending Section
16 1070.15, to read as follows:

17 **SEC. 1070.15. NOISE ABATEMENT.**

18 Whenever, upon due notice and hearing, it shall be determined that noise from any
19 Extended-Hours Premises ~~establishment licensed under this Article~~ interfered with the right of
20 persons dwelling in the vicinity of such establishment to the peaceful and quiet use and
21 enjoyment of their property, the Entertainment Commission may require that the premises be
22 soundproofed in a manner that in the judgment of the Entertainment Commission will be
23 effective to eliminate the noise or reduce it to a reasonable level. In taking any action under
24 this Section, the Entertainment Commission must balance all of the interests of the respective
25 parties, as well as the hardship which will result from any order. ~~If,~~ if the Entertainment

1 Commission finds that the noise complained of is of a minimum or inconsequential
2 ~~unconsequential~~-degree, no action shall be taken under this Article. If a licensee fails, within a
3 reasonable time and in no event more than ~~sixty~~ 60-days after having been ordered to do so
4 pursuant to this Article, to take such steps as were ordered to abate any noise, his or her
5 license shall be suspended after a second hearing, due notice of which is given, until such
6 time as he or she complies with the order.

7 Section 11. The San Francisco Police Code is hereby amended by amending Section
8 1070.16, to read as follows:

9 **SEC. 1070.16. MINORS.**

10 Except as provided in this Section, no person under twenty-one 21-years of age shall
11 enter, be, or remain in or on any Extended-Hours Premises ~~premises operated as an extended hours~~
12 ~~premises~~. A licensee shall not permit such a person to enter, be, or remain in or on any such
13 premises except on Friday and Saturday nights there shall be a one-half hour grace period,
14 until 2:30 a.m., for the departure from Extended-Hours Premises ~~extended hours premises~~ of
15 persons eighteen to twenty-one ~~18 to 21~~-years of age.

16 Section 12. The San Francisco Police Code is hereby amended by amending Section
17 1070.17, to read as follows:

18 **SEC. 1070.17. SUSPENSION AND REVOCATION.**

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

22 (1) The ~~building, structure, equipment or location of the proposed~~ Extended-Hours
23 Premises ~~extended hours premises~~ do ~~does~~-not comply with or ~~fail~~ ~~fails~~-to meet ~~all of~~ the health,
24 zoning, fire, and safety requirements or standards of all ~~the~~ laws of the State of California and
25

1 ~~or~~ ordinances of the City and County of San Francisco applicable to such business operation;
2 or

3 (2) The ~~establishment has~~ Extended-Hours Premises have been operated in a manner
4 that has harmed the public health, safety, or welfare by significantly increasing pedestrian
5 traffic, the incidence of disorderly conduct, or the level of noise in the area in which the
6 premises are located, and the permittee has failed, upon request after being requested by the
7 Police Department or Entertainment Commission ~~to do so~~, to take reasonable steps to alleviate
8 these conditions, such as providing additional off-street parking, security, soundproofing,
9 restroom facilities, or refuse containers; or

10 (3) The ~~proprietor or persons in charge thereof have violated, permitted the violation,~~
11 permittee has engaged in conduct, allowed another person or persons to engage in conduct, or failed
12 to take reasonable steps upon request of, after being requested by the Police Department or
13 Entertainment Commission ~~to do so~~, to halt conduct violations on the premises or in connection
14 with the operation of the ~~establishment~~ Extended-Hours Premises that would constitute a violation of
15 any of the following California laws ~~of the State of California~~: Penal Code ~~code~~ Sections 266h,
16 266i, 315, 316, 330, 337a, 657(b); Business and Professions Code Sections 23300, 25602,
17 25631, 25657, 25658; Health and Safety Code Sections 11351, 11352, 11359, 11360, 11378,
18 11379, 11378.5, 11379.5; or, the ~~permittee has~~ proprietor or persons in charge thereof have
19 implemented, maintained, or permitted any admission or related policy or practice which
20 violates ~~Section 3305 of the~~ San Francisco Police Code Section 3305. Unless expressly provided
21 otherwise, all statutory references in this Section shall refer to such statutes as amended from time to
22 time and shall include successor provisions.

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

1 (5) The permittee has failed to submit a proposed security plan or a revised security plan as
2 required by Section 1070.29.

3 (6) The permittee has failed to comply with the security plan approved for the Extended-
4 Hours Premises.

5 (b) The Entertainment Commission shall provide the permittee at least fifteen days written
6 notice of the grounds for the proposed suspension or revocation, and of the date, time, and location of
7 the public hearing at which the matter will be heard. The Entertainment Commission shall make its
8 determination whether to suspend or revoke a permit within twenty-one City business days of the close
9 of the hearing. The Entertainment Commission may adopt rules governing the procedures by which the
10 Commission hears and determines the suspension and revocation of permits issued under the terms of
11 this Article, and may include a rule extending the time for making its determination after the close of
12 the hearing.

13 (c)(b) The penalty for the first violation under Subsection (a)(1) through (6) (5) within a
14 period of six months shall be suspension of said permit for a period of 30 up to thirty days. The
15 penalty for the second violation of the same or any other provision of Subsection (a)(1) through (6)
16 within a period of six months of the order of suspension for the first violation shall be suspension
17 of said permit for a period of 60 up to sixty days. The penalty for the third and subsequent
18 violations of the same or any other provision of Subsection (a)(1) through (6) within a period of six
19 months of the order of suspension for the second or any subsequent violation shall be suspension of
20 said permit for a period of 90 up to ninety days. For the purposes of this Subsection, calculation
21 of the six months shall not include any period of time during which the permit was suspended.
22 In determining the length of the suspension, the Entertainment Commission shall consider the
23 seriousness and the frequency of the violation(s) in light of the effort taken to correct them and the
24 impact of the violation(s) on the surrounding neighborhood.

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

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

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

7 (3) The permittee has sold or transferred ownership of the business without obtaining the
8 approval required by, or in violation of, Section 1070.22 or permanently ceased operation of the
9 business.

10 (e) A permittee whose permit has been suspended or revoked under this Section may seek
11 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
12 1094.8, as these provisions may be amended, including any successor provisions, or any other
13 procedure provided by law. The permittee is not required to exhaust his or her administrative remedies
14 before the Board of Appeals.

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

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

20 Section 13. The San Francisco Police Code is hereby amended by amending Section
21 1070.19, to read as follows:

22 **SEC. 1070.19. EXCEPTIONS.**

23 (a) The Entertainment Commission may grant an exception to an Extended-Hours
24 Premises ~~extended hours premises~~ as defined herein from the provisions of Sections 1070.11,
25 1070.13, and 1070.16 relating to lighting of the premises, booths, and minors ~~being~~ on the

1 premises if the Entertainment Commission shall find that the Extended-Hours Premises ~~extended-~~
2 ~~hours premises~~ is used exclusively for any of the following purposes:

3 (1) A Bona Fide Public Eating Place ~~bona fide public eating place~~ as defined herein to
4 which the Department of Public Health has issued a public eating place permit ~~has been issued by~~
5 ~~the Department of Public Health.~~

6 (2) A Place of Entertainment without a ~~place of entertainment that has no~~ liquor license.

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

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

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

25

1 ~~(d) — The Board, in addition to its several other duties, shall have the power and it shall be its~~
2 ~~duty to hear and determine appeals from the decisions of the Entertainment Commission made upon~~
3 ~~petition for an exception from the regulations. The Board may affirm or reverse such decision by the~~
4 ~~Entertainment Commission or dismiss the appeals therefrom as may be just, and shall prescribe such~~
5 ~~forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the decision~~
6 ~~by the Entertainment Commission the Board may take such evidence and make such investigation as it~~
7 ~~may deem necessary. It shall give notice of its determinations in writing to the petitioner and shall file a~~
8 ~~copy of each determination with the Entertainment Commission. The determination shall become final~~
9 ~~10 days thereafter. If the Board of Review concurs with the determination of the Entertainment~~
10 ~~Commission, the regulations shall become effective as an order or decision of the Entertainment~~
11 ~~Commission. If the Board of Review overrules the order or decision of the Entertainment Commission,~~
12 ~~the regulations shall not be enforced by the Entertainment Commission.~~

13
14 Section 14. The San Francisco Police Code is hereby amended by amending Section
15 1070.20, to read as follows:

16 **SEC. 1070.20. LIMITED SUSPENSION.**

17 ~~(a) — The Executive Director of the Entertainment Commission may suspend any~~ Any permit
18 ~~issued under the terms of this Article may be suspended for a period of up to seven~~ 30 days ~~by the~~
19 ~~Entertainment Commission if the Director the Entertainment Commission determines, after providing~~
20 ~~the permittee with at least five days written notice and an opportunity to respond, a noticed hearing~~
21 ~~that one or more of the following have~~ violation of the regulations or any provision of the Municipal
22 ~~Code has occurred.;~~

23 ~~(1) — The Extended-Hours Premises has exceeded the allowable noise emissions, as codified~~
24 ~~in Article 29 of the Police Code, on three separate dates within a three month time period. Written~~
25 ~~notice of the proposed suspension shall specify the dates, approximate times, and violations alleged~~

1 and a copy of the noise emission reports for the alleged violations. Evidence that permittee has
2 exceeded allowable noise emissions shall be based on reports taken by the San Francisco Police
3 Department, the Entertainment Commission staff, or an agent of either in accordance with the
4 measurement procedures set forth in Article 29 of the Police Code. The Director may not issue an
5 order of limited suspension under Subsection (a)(1) unless the reports indicating the alleged noise
6 violations have been communicated within two City business days of each occurrence to the permittee.
7 Communication of the reports may be made in writing by delivering a copy personally or by fax or
8 email. Alternatively, communication of the substance of the reports may be made verbally, either in
9 person or by telephone. These communications shall be made to a person identified by the permittee as
10 responsible for the day-to-day management of the business. Within three City business days of the
11 communication, however made, the Director shall send a copy of each report via United States First
12 Class Mail to the permittee, postage prepaid. The Director shall maintain on file a document setting
13 forth the method by which the communications were made.

14 (2) The permittee has engaged in conduct that constitutes a nuisance, or has allowed or
15 failed to take reasonable steps to halt the conduct of another person or persons that constitutes a
16 nuisance. This Subsection applies only when the conduct occurred on the premises of, or on any
17 sidewalk abutting, the Extended-Hours Premises; when the conduct continued after the Director
18 notified the permittee of the problem; and when the Director has informed the permittee of corrective
19 actions to address the problem and the permittee failed to take the corrective actions. For purposes of
20 this Subsection (a)(2):

21 (A) "Premises" include the immediately adjacent area that is owned, leased, or rented by
22 the permittee.

23 (B) "Any sidewalk abutting" means the pedestrian-traveled right of way, not more than fifty
24 (50) feet from the premises, that is located between a permitted premises, including any immediately
25 adjacent area that is owned, leased, or rented by the permittee, and a public street.

1 (C) For purposes of this Subsection (a)(2), conduct that constitutes a nuisance means any
2 conduct that would constitute a violation of the following laws: disturbing the peace (Cal. Penal Code
3 § 415); obstruction of pedestrian or vehicle right of way (Cal. Penal Code § 370); gambling (Cal.
4 Penal Code §§ 330, 337(a)); prostitution (Cal. Penal Code §§ 266(h), 266(i), 315, 316, 647(b));
5 loitering (Cal. Penal Code §§ 647(d), 647(h)); violation of laws regulating controlled substances (Cal.
6 Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5); public
7 urination or defecation (San Francisco Police Code Art. 2, § 153); accumulation of filth (Cal. Health &
8 Safety Code § 17920.3(j)); or excessive noise emissions (San Francisco Police Code Art. 29).

9 (D) "Corrective action" includes, but is not limited to, the following:

10 (i) Calling the local law enforcement agency in a timely manner.

11 (ii) Requesting those persons whose conduct constitutes a nuisance to cease the
12 conduct, or ejecting those persons from the premises.

13 (iii) Revising the security plan for the Extended-Hours Premises, if the Director has
14 approved the revisions.

15 (b) (1) To provide the permittee with an opportunity to file an appeal, an order of limited
16 suspension issued by the Director shall not be effective for at least three City business days. A
17 permittee may appeal to the Entertainment Commission an order of limited suspension issued by the
18 Director by filing with the Commission Secretary a written request for review within three City
19 business days of service of the order. Service may be made by personal delivery, fax or email using the
20 contact information provided by the permittee. Once a permittee files a request for review, the order is
21 stayed pending the Commission's decision. If a permittee withdraws the appeal, the Director's order
22 shall no longer be stayed and shall take effect on the date of the withdrawal. The Commission shall
23 hear and decide an appeal of the Director's order within ten City business days of the date the request
24 for review is filed. The Commission may affirm, overturn, or modify the Director's order. When the
25 Commission affirms the Director's order, the order takes effect the day after the Commission's action.

1 When the Commission modifies the Director's order, the order as modified by the Commission shall
2 take effect the day after the Commission's action.

3 (2) If no appeal of the Director's order is filed, the order shall take effect the day after the
4 time to appeal has passed or at any earlier day to which the permittee and the Director agree in
5 writing.

6 (3) Notwithstanding the provisions of Subsections (b)(1) and (2) relating to the effective
7 date of orders of limited suspension, after issuing an order of limited suspension, the Director shall
8 allow a permittee to submit a plan of corrective action. If the permittee submits such a plan and the
9 Director approves it, the Director shall stay the order for a period of time that the Director deems
10 reasonable for the permittee to comply with the plan.

11 (4) When the permittee has appealed the Director's order to the Commission, the
12 Commission may, if it deems appropriate to do so, include in its action on the matter approval of a plan
13 of correction. Where the Commission has affirmed the Director's order or has approved a modified
14 order of limited suspension, the Commission may direct that the order be stayed to provide the
15 permittee time to comply with a plan of correction.

16 (5) If the Director determines that the permittee has complied with the plan of correction by
17 the deadlines set forth in the plan, the Director shall vacate the order. If the Director determines that
18 the permittee has failed to comply with any substantial element of the plan of correction, including any
19 deadline, the stay shall no longer be in effect and the permit shall be suspended for the period of time
20 set forth in the order of suspension, effective on the date set forth by the Director in a written notice to
21 the permittee.

22 (6) The Director may initiate orders of limited suspension under this Section against an
23 Extended-Hours Premises no more than three times in any twelve-month period. Each order of limited
24 suspension may include multiple violations under Subsection (a)(1)-(2).

1 (c) When a final order of limited suspension has been issued, the permittee may seek
2 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
3 1094.8, as these provisions may be amended, including any successor provisions, or any other
4 procedure provided by law. The permittee is not required to exhaust his or her administrative remedies
5 before the Board of Appeals.

6 (d) This Section shall not be construed to limit or proscribe any power or authority vested in
7 any other public officer or entity with respect to places of entertainment, including the Entertainment
8 Commission.

9 Section 15. The San Francisco Police Code is hereby amended by adding Section
10 1070.20-1, to read as follows:

11 **SEC. 1070.20-1. SUSPENSION FOR PUBLIC SAFETY.**

12 (a) The Director may suspend any permit issued under the terms of this Article for up to 72
13 hours if the Director determines, after providing the Permittee with at least 8 hours written notice and
14 an opportunity to respond, that the Permittee has engaged in conduct on the premises or, or on any
15 sidewalk abutting, the Extended-Hours Premises that constitutes a public nuisance, or has allowed or
16 failed to take reasonable steps to halt the conduct of another person or persons that constitutes a public
17 nuisance.

18 Conduct that constitutes a public nuisance within the meaning of this Subsection means conduct
19 that meets off of the following: (1) the conduct would constitute a violation of laws prohibiting
20 disturbance of the peace, possession or sale of illegal drugs, public drunkenness, drinking in public,
21 gambling, prostitution, sale of stolen goods, theft, robbery, assault, battery, vandalism, illegal
22 possession or use of a weapon; (2) the conduct has resulted in serious bodily injury or death; and (3)
23 continued operation of the Place of Entertainment poses a serious threat to public safety.

1 For purposes of this Section:

2 (1) "Premises" include the building or buildings for which a Permit has been issued and
3 any immediately adjacent area that is owned, leased, or rented by the permittee.

4 (2) "Any sidewalk abutting a permitted premises" means the pedestrian-traveled right of
5 way, not more than fifty feet from the premises, that is located between a permitted premises, including
6 any immediately adjacent area that is owned, leased, or rented by the permittee, and a public street.

7 (b) Unless it provides otherwise, the order of emergency suspension issued under this
8 Section shall take effect immediately and shall remain in effect for 72 hours.

9 (c) The Director may vacate an order of emergency suspension if the Director determines
10 that operation of the Place of Entertainment before expiration of the order will not pose a danger to the
11 public because additional information indicates that the conduct was not related to the operation of the
12 Place of Entertainment, the Permittee has taken steps to correct the problem giving rise to the
13 suspension, or other circumstances warrant such action.

14 (d) When a final order of emergency suspension has been issued, the permittee may seek
15 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
16 1094.8, as these provisions may be amended, including any successor provisions, or any other
17 procedure provided by law. The permittee is not required to exhaust his or her administrative remedies
18 before the Board of Appeals.

19 (e) The authority granted to the Director under this Section shall not in any way restrict the
20 authority of the Director to suspend a permit under any other provision of this Article or the authority
21 of any other public officer or entity to take action with respect to places of entertainment, including the
22 Entertainment Commission.

23 Section 16. The San Francisco Police Code is hereby amended by renumbering
24 Section 1070.20-1 to Section 1070.20-2 and amending it, to read as follows:

1 **SEC 1070.20-2 ~~SEC. 1070.20-1.~~ LICENSE FEES.**

2 Every ~~person-permittee~~ who conducts, permits, or assists in conducting or permitting any
3 ~~Extended-Hours Premises~~ ~~extended hours premises~~ as defined, shall pay to the Tax Collector an
4 annual license fee, payable in advance.

5 The license fee prescribed in this Section is due and payable on a calendar year basis
6 starting ~~ninety~~ 90 days after the effective date of this Article, prorated with regard to the
7 calendar year on a monthly basis. Fees for new licenses issued after the first day of January,
8 1971, or in any subsequent calendar year shall be prorated with regard to the calendar year
9 on a monthly basis.

10 Section 17. The San Francisco Police Code is hereby amended by repealing Section
11 1070.21:

12 **~~SEC. 1070.21. STAY ORDERS.~~**

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

16 Section 18. The San Francisco Police Code is hereby amended by amending Section
17 1070.22, to read as follows:

18 **SEC. 1070.22. SALE OF BUSINESS PROHIBITED; PERMIT AMENDMENT FOR PARTIAL**
19 **TRANSFER OF OWNERSHIP; AND AMENDMENT OF PERMIT CONDITIONS** ~~TRANSFER~~
20 ~~OF PERMIT.~~

21 ~~(a) The owner or owners of a business for which a Extended-Hours Premises Permit has~~
22 ~~been issued shall not transfer all ownership interest in the business to any other person. If the owner~~
23 ~~or owners make such a transfer, they shall surrender the permit to the Entertainment Commission~~
24 ~~within seven days. No permit shall be transferable except with the written consent of the Entertainment~~
25 ~~Commission. An application for such a transfer shall be in writing and shall be accompanied by the~~

1 ~~same filing fee as for an initial application. The written application for such transfer shall contain the~~
2 ~~same information as requested herein for an initial application for such a permit.~~

3 (b) No permit issued under this Article is transferable to any other person. The partial
4 transfer of ownership of a business for which a Extended-Hours Premises Permit has been issued is
5 permitted as set forth in this Section.

6 (c) No person shall partially transfer the ownership of any business for which a Extended-
7 Hours Premises Permit has been issued without filing an application for an amended permit and
8 obtaining approval as required by this Section. No approval is required if the transfer does not result
9 in any person having an ownership interest of ten percent or more.

10 (d) No person shall engage in a major transfer of ownership without the approval of the
11 Entertainment Commission. "A major transfer of ownership" means a transfer that results in a person
12 owning fifty percent or more of the business, regardless of the form of ownership. An application to
13 amend a permit for a major transfer of ownership shall be in writing and shall be accompanied by the
14 filing fee required by Section 2.26 of this Code. The written application shall contain the same
15 information as requested herein for an initial application. The Commission shall take action on
16 applications for a major transfer of ownership as set forth in Section 1070.5 within forty-five City
17 business days of receipt of the application. The Commission may extend this period up to ten
18 additional City business days. A person whose application has been denied may seek immediate
19 judicial review pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as
20 these provisions may be amended, including any successor provisions, or any other procedure provided
21 by law.

22 (e) No person shall engage in a minor transfer of ownership without the approval of the
23 Director. "A minor transfer of ownership" means a transfer that results in a person owning at least ten
24 percent but less than fifty percent of the business, regardless of the form of ownership. An application
25 to amend a permit for a minor change in ownership shall be in writing and shall be accompanied by the

1 filing fee required by Section 2.26 of this Code. The application shall contain the same information as
2 requested herein for an initial application, or such portion as the Director may require. The Director
3 shall act on completed applications within fifteen days. The Director shall approve the application
4 unless he or she determines that denial is warranted under any of the grounds set forth in Section
5 1070.5(f). In the case of a denial, the applicant may appeal to the Entertainment Commission by filing
6 with the Commission Secretary a written request for review within seven City business days of the date
7 the Director sent the decision via United States First Class Mail to the permittee, postage prepaid. The
8 Commission shall hear and decide the appeal within forty-five City business days of the date the
9 request for review is filed. The Commission may extend this period up to ten additional City business
10 days. The Commission shall take action on applications for a major transfer of ownership as set forth
11 in Section 1070.5. An applicant whose application has been denied may seek immediate judicial review
12 pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as these provisions
13 may be amended, including any successor provisions, or any other procedure provided by law.

14 (f) The Entertainment Commission may revoke a permit for a business if its ownership has
15 been transferred without the approval required by or in violation of this Section. (See Section
16 1070.17(d)(3).)

17 (g) A permittee may not operate Extended-Hours Premises in any manner inconsistent with
18 any condition that the Entertainment Commission has imposed on the permit. A permittee may request
19 an amendment to a permit to remove or change any such condition by filing a request with the
20 Secretary of the Commission and paying the fee required under Police Code Section 2.26. The
21 Entertainment Commission shall take action on any such applications as provided in Section 1070.5
22 within forty-five City business days of receipt of the request. The Commission may extend this period
23 up to ten additional City business days. An applicant whose application has been denied by the
24 Commission may seek immediate judicial review pursuant to California Code of Civil Procedure
25

1 Section 1085 or Section 1094.8, as these provisions may be amended, including any successor
2 provisions, or any other procedure provided by law.

3 (h) The provisions governing changes in ownership shall not apply to a publicly traded
4 company. A publicly traded company is a company that has issued securities through an initial public
5 offering which are traded on at least one stock exchange or over-the-counter market.

6 Section 19. The San Francisco Police Code is hereby amended by amending Section
7 1070.23, to read as follows:

8 **SEC. 1070.23. PERMIT REQUIRED.**

9 All Extended-Hours Premises ~~premises operating as an extended hours premises~~ as defined in
10 Section 1070(a) herein are required to conform with all provisions ~~contained in Sections 1070~~
11 ~~through 1070.17~~ of this Article 15.2 within ninety ~~90~~-days of the effective date thereof, unless
12 excepted pursuant to Section 1070.19. ~~failure so to do~~ Failure to do so shall make continued
13 operation of said Extended-Hours Premises ~~extended hours premises establishment~~ a violation of
14 Section 1070.24 ~~hereof~~.

15 New permits must be obtained from the Entertainment Commission as Sections
16 1070.1, 1070.2, 1070.3 and 1070.4 hereof provide.

17 Section 20. The San Francisco Police Code is hereby amended by amending Section
18 1070.24, to read as follows:

19 **SEC. 1070.24. PENALTY.**

20 (a) Any person engaging in the following conduct ~~who violates any provisions of this~~
21 ~~Article shall be deemed guilty of an infraction a misdemeanor and upon conviction such person shall~~
22 ~~be punished by a fine of not to exceed \$1,000 or by imprisonment in the County Jail for a period not to~~
23 ~~exceed six months, or by both such fine and imprisonment. Any person who engages in the following~~
24 ~~conduct more than once in a twelve-month period shall be guilty of an infraction or misdemeanor, at~~
25 ~~the discretion of the prosecutor;~~

1 (1) Owns, conducts, operates, or maintains an Extended-Hours Premises without a valid
2 permit as required by this Article, or

3 (2) Transfers ownership of a business for which an Extended-Hours Premises Permit has
4 been issued under this Article in violation of, or without obtaining the approval required by, Section
5 1070.22.

6 (b) Each day a person owns, conducts, operates, or maintains an Extended-Hours Premises
7 without a valid permit shall constitute a separate violation.

8 (c) A violation which is an infraction is punishable by a fine of not more than one hundred
9 dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation of the same
10 prohibition within one year, and five hundred dollars (\$500) for each additional violation of the same
11 prohibition within one year.

12 (d) A violation which is a misdemeanor is punishable by a fine not to exceed one thousand
13 dollars (\$1000) or by imprisonment in the county jail for no more than six months, or by both such fine
14 and imprisonment.

15 (e) Additionally, any violation of the provisions of this Article or Article 33 by a permittee
16 shall be deemed cause to revoke or suspend a permit as set forth in this Article.

17 Section 21. The San Francisco Police Code is hereby amended by repealing Section
18 1070.26:

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

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

24 ~~(a) Moratorium Area Described. The "Moratorium Area" includes the area bounded by Bush~~
25 ~~Street to the North, O'Farrell Street to the South, Taylor Street to the East, and Van Ness Avenue to the~~

1 ~~West, including the properties fronting on each side of O'Farrell, Bush, and Taylor Streets, but not~~
2 ~~including the properties fronting Van Ness Avenue.~~

3 ~~(b) Sunset Provision. The moratorium provided by this ordinance shall expire on December~~
4 ~~31, 2000 unless repealed or further extended by ordinance.~~

5 Section 22. The San Francisco Police Code is hereby amended by amending Section
6 1070.27, to read as follows:

7 **SEC. 1070.27. EARPLUGS AND FREE DRINKING WATER.**

8 If the location for which the Extended-Hours Premises Permit ~~extended hours premises~~
9 ~~permit~~ is issued holds over five hundred ~~500~~ persons and contains a dance floor or other place
10 primarily designated for dancing, the permit holder shall provide:

11 (a) Free cool drinking water to patrons by means of an automatic drinking fountain
12 or ~~by providing~~ cups of water at all beverage service locations, or both; and

13 (b) Earplugs for free, or for sale on the premises at a reasonable price.

14 Section 23. The San Francisco Police Code is hereby amended by adding Sections
15 1070.28 and 1070.29, to read as follows:

16 **SEC. 1070.28. PERMITTEES REQUIRED TO REPORT INFORMATION.**

17 (a) Every permittee shall file a verified report, as defined by Section 1070.4, with the
18 Entertainment Commission within thirty days after any of the following occurs:

19 (1) Any change in the name, address, or contact information of persons identified by the
20 permittee as day-to-day managers of the business and any change in the name or address of the person
21 authorized to accept service.

22 (2) Any criminal conviction information, for those persons described in Section
23 1070.3(b),(c) and (d) and for persons whose information is required to be reported under this Section
24 to the extent that the conviction falls within the categories specified in those provisions.

1 (b) Any corporation holding an Extended-Hours Premises Permit shall maintain a record of
2 its shareholders at the principal office of the corporation in California and the record of its
3 shareholders shall be available to the Entertainment Commission for inspection. The corporation shall
4 report within thirty days the issuance or transfer of any shares of stock to any person where the
5 issuance or transfer results in the person owning ten percent or more of the corporate stock.

6 **SEC. 1070.29. SECURITY PLANS.**

7 (a) Each Extended-Hours Premises shall have a security plan, as defined in Section
8 1070(h), that has been approved by the Entertainment Commission or by the Executive Director, as
9 required by this Article.

10 (b) The Entertainment Commission shall not approve or conditionally approve any
11 application for an Extended-Hours Premises Permit under this Article unless a security plan has been
12 submitted in connection with such application. The security plan must meet the requirements of Section
13 1070(h) and any implementing rules and regulations, adequately addressing the need to protect the
14 safety of persons and property, and providing for the orderly dispersal of persons and traffic from the
15 Extended-Hours Premises.

16 (c) Every Extended-Hours Premises that does not have a security plan reviewed and
17 approved by the Entertainment Commission shall submit a proposed security plan to the Director. The
18 Director shall mail notice to each such permittee no later than ninety days from the effective date of
19 this Section to inform such persons of the requirements of this Section. Any permittee subject to the
20 requirements of this Subsection shall submit a proposed security plan no later than thirty days from the
21 date of the Director's written notice.

22 (d) The Director shall review each proposed plan submitted pursuant to Subsection (c) and
23 shall approve or disapprove it. The Director shall provide written notice of the decision to the
24 permittee. If the Director approves, the permittee shall comply with the plan immediately upon receipt
25 of notice of the Director's approval. If the Director disapproves, the Director's decision shall set forth

1 in the written decision any further changes required in order to obtain approval. The permittee shall
2 either revise the security plan as directed and file it with the Director within ten days of receipt of the
3 Director's decision or appeal the Director's decision to the Entertainment Commission by filing a
4 written request with the Secretary of the Commission within ten days of the date that the permittee
5 receives notice of the Director's disapproval. A permittee who has timely appealed the Director's
6 decision shall not be required to comply with the proposed plan or the Director's revisions pending the
7 Commission's action on the appeal. When acting on an appeal under this Subsection, the Commission
8 may affirm the Director's decision, or it may overturn it, in which case the Commission shall set forth
9 any changes to the plan that the permittee shall be required to make. If the Commission affirms the
10 Director's decision, the permittee shall file a revised plan with the Director consistent with the
11 Director's decision within three City business days of the Commission's action. If the Commission
12 overturns the Director's decision, the permittee shall revise the plan consistent with the Commission's
13 determination and file it with the Director within three City business days of the Commission's
14 determination.

15 (e) If the Director determines that conduct constituting a nuisance under Section
16 1070.20(a)(2) has occurred on the premises of the Extended-Hours Premises or on any sidewalk
17 abutting the premises, or that an Extended-Hours Premises is attracting such a large number of
18 persons that its current security plan is inadequate to address safety or traffic concerns, and further
19 determines that a revised security plan will address the problem in whole or in part, the Director may
20 issue an order directing the permittee to make such revisions as the Director reasonably determines
21 will address the safety and traffic concerns. To provide the permittee with an opportunity to file an
22 appeal, the Director's order shall not be effective for ten City business days from the date that it is
23 transmitted to the permittee. Any permittee directed to change a security plan under this Subsection
24 may appeal the Director's decision within ten City business days of the date that the order was
25 transmitted to the permittee by filing a written request for review with the Entertainment Commission.

1 The permittee shall not be required to comply with the Director's order pending the Commission's
2 action on the matter. If the permittee withdraws the appeal, the order of the Director shall take effect
3 immediately upon the withdrawal. The terms "premises" and "any sidewalk abutting" as set forth in
4 this Subsection shall be defined as set forth in Section 1070.20(a)(2)(A) and (B).

5 (f) The permittee shall comply with the security plan as approved under this Article. The
6 Entertainment Commission may suspend a permit as set forth in Section 1070.17(a)(6) if the permittee
7 fails to comply with the approved security plan.

8 (g) The Entertainment Commission may suspend a permit as set forth in Section
9 1070.17(a)(5) if the permittee has failed to submit a proposed or revised security plan as required by
10 this Section until such time as the permittee complies with the requirement.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

By: _____
VIRGINIA DARIO ELIZONDO
Deputy City Attorney