

AMENDMENT OF THE WHOLE
6/18/03

FILE NO. 021948

ORDINANCE NO.

1 [Regulating Fortunetellers.]

2

3 **Ordinance repealing Section 162 of the San Francisco Police Code relating to**
4 **advertising by fortunetellers; adding Sections 1300 to 1321 to the San Francisco Police**
5 **Code requiring fortunetellers to obtain a permit, setting forth permit procedures,**
6 **regulating business by prohibiting deceptive acts and requiring receipts, rate**
7 **schedules, and identification cards, requiring permit number on advertisements,**
8 **allowing license inspections, and setting forth the penalty for violations of these**
9 **sections; and amending San Francisco Police Code Section 2.26 setting forth permit**
10 **and filing fees.**

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

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

15 Section 1. The San Francisco Police Code is hereby amended by repealing Section
16 162, to read as follows:

17 ~~SEC. 162. FORTUNE TELLING, ETC., ADVERTISING AND CARRYING ON~~
18 ~~BUSINESS OF, PROHIBITED.~~

19 ~~It shall be unlawful for any person or persons to advertise (by sign, circular, handbill or~~
20 ~~in any newspaper, periodical or magazine, or other publication or publications, or by any other~~
21 ~~means) to tell fortunes, to practice phrenology, to find or restore lost or stolen property, to~~
22 ~~locate oil wells, gold or silver or other ore or metal or natural product, to restore lost love or~~
23 ~~friendship or affection, to unite or procure lovers, husbands, wives, lost relatives or friends, for~~
24 ~~or without pay; by means of occult or psychic powers, faculties or forces, clairvoyance,~~
25 ~~psychology, psychometry, spirits mediumship, seership, prophecy, astrology, palmistry,~~

1 ~~necromancy, or other crafty science, cards, talismans, charms, potions, magnetism or~~
2 ~~magnetized articles or substances, Oriental mysteries or magic of any kind or nature; or to~~
3 ~~engage in or carry on any business the advertisement of which is prohibited by this Section;~~
4 ~~provided that nothing in this Section shall apply to any ordained or duly accredited minister of~~
5 ~~any form of religious belief, or to the faith, practice or teaching of any religious body; provided~~
6 ~~that fees, gratuities, emoluments or profits therefor shall be paid solely to or for the benefit of~~
7 ~~said religious body.~~

8 Section 2. The San Francisco Police Code is hereby amended by adding Section
9 1300 to 1321, as follows:

10 Sec. 1300. Purpose. The purpose of this legislation is to regulate fortunetellers, psychics, and
11 other similar businesses so that the City and County of San Francisco can efficiently and thoroughly
12 investigate fraud and deception; protect the public by preventing people with a history of deceptive
13 practices from having easy access to persons who may be vulnerable to fraud or confidence games;
14 and to ensure that consumers are provided with information regarding services, rates, and complaint
15 procedures.

16 Sec. 1301. Permit Required for Fortunetelling. It shall be unlawful for any person to advertise
17 or offer or engage in the activity, enterprise, profession, trade, or undertaking of fortunetelling with the
18 object of gain, benefit or advantage, whether direct or indirect, without a valid permit issued by the San
19 Francisco Police Department. Gain, benefit or advantage includes but is not limited to economic
20 remuneration of any kind, including authorization to use credit issued to another, use of another's
21 property or assets, loans, or the provision of tangible items.

22 Sec. 1302. Definitions.

23 (a) Fortunetelling shall mean the telling of fortunes, forecasting of futures, reading the past,
24 or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by
25 means of any occult, psychic power, faculty, force, clairvoyance, cartomancy, psychometry,

1 phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand, coffee grounds, crystal
2 gazing or other such reading, or through mediumship, seership, prophecy, augury, astrology,
3 palmistry, necromancy, mindreading, telepathy or other craft, art, science, talisman, charm, potion,
4 magnetism, magnetized article or substance, or by any such similar thing or act. It shall also include
5 effecting spells, charms, or incantations, or placing, or removing curses or advising the taking or
6 administering of what are commonly called love powders or potions in order, for example, to get or
7 recover property, stop bad luck, give good luck, put bad luck on a person or animal, stop or injure the
8 business or health of a person or shorten a person's life, obtain success in business, enterprise,
9 speculation and games of chance, win the affection of a person, make one person marry or divorce
10 another, induce a person to make or alter a will, tell where money or other property is hidden, make a
11 person to dispose of property in favor of another, or other such similar activity.

12 (b) Fortunetelling shall also include pretending to perform these actions.

13 (c) Person as used in Sections 1300 to 1321 shall mean an individual. Corporations and
14 other legal entities shall not be entitled to a fortuneteller permit.

15 Sec. 1303. Exception. Sections 1300 through 1321 shall not apply:

16 (a) To persons solely by reason that the person is engaged in the business of entertaining
17 the public by demonstrations of mindreading, mental telepathy, thought conveyance, magic, giving of
18 horoscopic readings or other fortunetelling at public places and in the presence of and within the
19 hearing of other persons, and where any questions answered as part of such entertainment may be
20 heard by all persons present at such public place.

21 (b) To persons conducting or participating in any religious ceremony as a minister,
22 missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as minister, from any
23 bona fide church or religious association maintaining a church and holding regular services and
24 having a creed or set of religious principles that is recognized by all churches of like faith, provided
25 that:

1 (1) The benefit, gain or advantage shall be regularly accounted for and paid solely to or for
2 the benefit of the bona fide church or religious association except that the bona fide church or religious
3 association may pay to its ministers a salary or compensation based upon a percentage only, pursuant
4 to an agreement between the church and the ministers that is embodied in a resolution and transcribed
5 in the minutes of such church or religious association.

6 (2) The minister holds a certificate of ordination from such bona fide church or religious
7 association.

8 Sec. 1304. Application for Permit for Fortunetelling. Application shall be on a form provided
9 by the SFPD and shall include:

10 (a) The full true name under which the business will be conducted.

11 (b) The applicant's full true name, and other names used, date of birth, California Driver's
12 License or other government-issued identification, social security number, present residence
13 address and telephone numbers.

14 (c) A copy of any fictitious business name statement under which the applicant is or intends to
15 operate.

16 (d) The name or names under which the permittee will be identifying himself or herself to the
17 public.

18 (e) The present or proposed address where the business will be conducted. If the business is to be
19 conducted in a street location or other location that is not fixed, the applicant shall so indicate,
20 and provide the applicant's home address.

21 (f) The applicant's gender, height, weight, color of hair, and color of eyes.

22 (g) All addresses at which the applicant has resided within five years prior to the application.

23 (h) The applicant's business, occupation, and employment history for the five years preceding the
24 date of the application.

- 1 (i) The permit history of the applicant, including whether such person has ever had a permit or
2 license issued for any fortunetelling or related business, by any agency, board, city, city and
3 county, county, territory or state, the issuing agency, the date of issuance, and whether the permit
4 was suspended or revoked and the reasons therefore.
- 5 (j) The address, City and State, and the approximate dates where and when the applicant
6 practiced a similar business, either alone or in conjunction with others.
- 7 (k) All convictions of any crime other than traffic offenses, whether in California or elsewhere,
8 relating to fraud, theft, burglary, sex offenses, use of violence, deceit, false impersonation, permit
9 violations or any other crime involving moral turpitude.
- 10 (l) Any other information requested by the Chief of Police necessary to ascertain the truth of the
11 matters specified and required on the application.
- 12 (m) A full set of fingerprints to be taken by the SFPD.
- 13 (n) Two recent passport sized photographs that accurately reflect the applicant's
14 likeness.
- 15 (o) The required application fee as set forth in the Administrative Code.
16 Sec. 1305. Permit Grant or Denial.
- 17 The Chief of Police shall grant the permit unless the Chief finds:
- 18 (a) The location fails to meet the zoning, health and safety, fire, or other code requirements
19 for the business.
- 20 (b) The applicant has been convicted of a crime relating to fraud, theft, burglary, sex
21 offenses, use of violence, deceit, false impersonation, permit violations or any other crime involving
22 moral turpitude.
- 23 (c) The applicant has previously had a permit revoked or suspended for violation of
24 permitting conditions.
- 25

1 (d) The applicant has failed to provide required information or has provided false or
2 misleading information to the Police Department or other City agency.

3 (e) The applicant has failed to pay the required fees.

4 Sec. 1306. Suspension, Revocation, or Reinstatement of Fortunetelling Permit.

5 When the Chief of Police determines that the permittee is violating or attempting to violate any
6 law of the State of California or any ordinance of the City and County of San Francisco or the
7 applicable rules and regulations of the Police Department, or has made material misrepresentations on
8 the permit application or other required reports, the Chief of Police, after written notice to the
9 permittee, shall have the power to suspend and, after due and proper hearing, shall have the power to
10 revoke, any permit issued under the provisions of Sections 1300 - 1321 inclusive. When suspended or
11 revoked, the permittee shall immediately surrender the permit to the Police Department's Permit
12 Bureau.

13 The Chief of Police shall cause to be forwarded to the Tax Collector written notice of any
14 revocation, suspension or reinstatement of any permit herein provided for.

15 The permittee shall be prohibited from applying for a fortunetelling permit for one year
16 following denial or revocation of a fortunetelling permit.

17 Sec. 1307. Permit Forwarded to Tax Collector; Payment of License Fees.

18 When the Chief of Police issues a permit under the provisions of this Article, the Chief of Police
19 shall cause such permit to be forwarded to the office of the Tax Collector for delivery to the permittee
20 upon the payment of the license fees.

21 Sec. 1308. Renewal of Permit.

22 A permit for fortunetelling shall be renewed as set forth in Sections 2.8 and 2.10 of this Code.

23 Sec. 1309. License Fees. Every holder of a fortuneteller's permit shall pay at the office of the
24 Tax Collector an annual license fee, payable in advance. The permit is not valid unless the license fee
25 has been paid.

1 Sec. 1310. Removal or Transfer of Permit or License Prohibited.

2 Nothing in Sections 1300 – 1321, inclusive, shall permit the removing or transferring of the
3 permit or license to any other location or person other than those for which or for whom the permit or
4 license was originally issued.

5 Sec. 1311. Deceptive Acts. Fortunetellers shall not engage in unfair or deceptive practices
6 during the conduct of any fortunetelling activities.

7 Sec. 1312. Receipts.

8 (a) The fortuneteller shall issue a written receipt that shall include the name of the permittee
9 who provided the services, the permittee's permit number, the services rendered, the amount charged for
10 each service provided, and the amount paid or expected. If payment is made in a method other than
11 cash, check, or credit card, the receipt shall so indicate.

12 (b) The permittee must keep copies of receipts for five years from date of issuance.

13 Sec. 1313. Identification Cards. The Chief of Police shall provide each fortuneteller granted a
14 permit with an identification nameplate that shall contain a photograph, right thumbprint, name, and
15 permit number of the permittee. The permittee must post the identification nameplate in a location
16 clearly visible from the place where the fortuneteller tells fortunes or otherwise engages in the activity
17 regulated by this article. The Department shall charge a fee for each identification nameplate issued
18 as set annually by the San Francisco Police Commission.

19 Sec. 1314. Rate Schedule and Complaint Procedure.

20 (a) When a fortuneteller operates at a roving or unfixed location, the fortuneteller shall
21 provide a written copy of rate information to the customer that shall be printed in plain, legible letters.
22 The rate document shall include a statement that if the customer has complaints, the customer may
23 phone the San Francisco Police Department Permit Bureau at 553-1115.

24 (b) When a fortuneteller operates out of a fixed location, the fortuneteller shall post rate
25 information in a conspicuous place accessible by the patrons at the fixed location on a sign at least 8 x

1 10 inches in 14 pt. type. The signage shall also include a statement that if the customer has complaints,
2 the customer may phone the San Francisco Police Department Permit Bureau at 553-1115.

3 (c) If the fortuneteller operates by donation or an indirect method of payment, including
4 remuneration that is at the discretion of the customer, the schedule of rates shall so indicate.

5 (d) The rates published shall be the only rates charged.

6 Sec. 1315. Advertising. All persons who advertise fortunetelling shall include in the
7 advertising the number of the permit issued by the San Francisco Police Department.

8 Sec. 1316. Updated Information. When any of the information required by this Article or
9 provided by the applicant changes, the permit holder shall within 15 days of the change provide to the
10 Police Department's Permit Bureau in writing the updated information.

11 Sec. 1317. Effective Date. Any person operating as a fortuneteller within the City and County
12 of San Francisco when ordinance enacted, shall have three months from the effective date of the Article
13 to obtain a permit.

14 Sec. 1318. Rules and Regulations to be Adopted. The Chief of Police may, after a public
15 hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the
16 intent of Sections 1300 to 1321.

17 Sec. 1319. Ascertainment of Compliance With All Law; Inspections Therefore

18 It shall be the duty of the Chief of Police to ascertain that all laws of the State of California, the
19 provisions of Sections 1300 to 1321, inclusive, all ordinances of the City and County of San Francisco,
20 and the rules and regulations of the Police Department are strictly complied with, and for that purpose
21 the representatives of the Police Department shall have access to any fortunetelling business at all
22 hours the business is in operation, and may request that a permittee provide copies of documents
23 required to be kept. The Police Department shall inspect as often as it deems necessary.

1 Sec. 1320. Penalty. Any person violating any provision of this section shall be guilty of a
2 misdemeanor or an infraction. The complaint charging such violation shall specify whether the
3 violation is a misdemeanor or infraction, which decision shall be that of the District Attorney.

4 If charged as an infraction, upon conviction, the violator shall be punished by a fine of not less
5 than \$100 or more than \$500, and/or community service, for each provision violated.

6 If charged as a misdemeanor, upon conviction, the violator shall be punished by a fine of not
7 less than \$200 or more than \$800, and/or community service, for each provision violated, or by
8 imprisonment in the County Jail for a period of not more than six months, or by both such fine and
9 imprisonment.

10 In any accusatory pleading charging a violation of this section, if the defendant has been
11 previously convicted of a violation of this section, each such previous violation and conviction may be
12 charged in the accusatory pleading. Any person violating any provision of this section a second time
13 shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more
14 than \$900, and/or community service, for each provision violated, or by imprisonment in the County
15 Jail for a period of not more than six months, or by both such fine and imprisonment. Any person
16 violating any provision of this section a third time, and each subsequent time shall be guilty of a
17 misdemeanor and shall be punished by a fine of not less than \$400 and not more than \$1,000, and/or
18 community service, for each provision violated, or by imprisonment in the County Jail for a period of
19 not more than six months, or by both such fine and imprisonment.

20 Sec. 1321. Severability Clause. If any provision or clause of this ordinance or the application
21 thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any
22 court of competent jurisdiction, such invalidity shall not affect other article provisions or clauses or
23 applications, and to this end the provisions and clauses of this ordinance are declared to be severable.

1 Section 3. The San Francisco Police Code Section 2.26 is hereby amended to add a
2 fee for fortunetellers as follows:

3 **Sec. 2.26 Schedule of Permits and Filing Fees.**

4 The following filing fees, payable in advance to the Police Department, are required
5 when submitting applications for permits to the Police Department or Entertainment
6 Commission:

7 TYPE OF PERMIT FILING FEE

8 Permit Amendment/Additional Partner \$ 81

9 Amusement Park 871

10 Antique Shop 558

11 Auto Wrecker 664

12 Ball or Ring Throwing Games 477

13 Balloon and Kite Advertising 367

14 Billiard Parlor 456

15 Bingo Games 112

16 Amendment to Permit 112

17 Circus 648

18 Closing-Out Sale 413

19 Dance Hall Keeper 1,401

20 Amendment to Permit 660

21 One Night Dance 40

22 Dealer in Firearms and/or Ammunition 961

23 Renewal 218

24 Discharge of Cannon 400

25 Distributor of Advertising

Class A 524

1 Class B 459
2 Driverless Auto Rental 631
3 Encounter Studio
4 Owner 725
5 Employee 202
6 Escort Service
7 Owner 709
8 Employee 202
9 Extended Hours Permit 1401
10 Amendment to Permit 660
11 Fortuneteller 295
12 Funeral Procession Escort 224
13 Insignia and Uniform 13
14 General Soliciting Agent 252
15 Itinerant Show 680
16 Itinerant Show/Nonprofit [fee set by Police Code Section 1017.2] 100
17 Junk Dealer 945
18 Junk Gatherer
19 Resident 439
20 Nonresident 370
21 Licensed Tour Guide 272
22 Loudspeaker
23 Commercial 416
24 Noncommercial 49
25 Vehicle 416

- 1 Masked Ball 779
- 2 Massage Establishment 1,684
- 3 Masseur/Masseuse 202
- 4 Trainee 202
- 5 Mechanical Amusement Devices 568
- 6 Mechanical Contrivance 568
- 7 Miniature Golf Course 586
- 8 Mobile Caterer 775
- 9 Additional Stop 73
- 10 Assistant 73
- 11 Transfer of Stop 73
- 12 Museum 645
- 13 Nude Models in Public Photographic Studio
- 14 Owner 704
- 15 Employee 202
- 16 Off-Heliport Landing Site 477
- 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:
9 DENNIS J. HERRERA, City Attorney

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11 By: _____
12 Margaret W. Baumgartner
13 Deputy City Attorney

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