

1 [Prohibition on loitering outside nightclubs.]

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3 **Ordinance amending the San Francisco Police Code by adding Section 121, to prohibit**  
4 **loitering outside nightclubs.**

5 Note: Additions are single-underline italics Times New Roman;  
6 deletions are ~~strikethrough italics Times New Roman~~.  
7 Board amendment additions are double underlined.  
8 Board amendment deletions are ~~strikethrough normal~~.

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

9 Section 1. The San Francisco Police Code is hereby amended by adding Section 121,  
10 to read as follows:

11 **SEC. 121. LOITERING OUTSIDE NIGHTCLUBS PROHIBITED.**

12 (a) Findings. The Board of Supervisors of the City and County of San Francisco finds that  
13 persons who loiter outside a nightclub when an event is in progress imperil the public's safety and  
14 welfare. The areas outside nightclubs have become the site of robberies, assaults, and battery. In  
15 addition, the Board finds that persons attending nightclubs have become intimidated and fearful for  
16 their safety because of the presence of persons loitering outside the clubs. Prohibiting loitering outside  
17 nightclubs will assist police and club security staff in protecting club patrons and may decrease the  
18 incidence of crimes of violence directed at club patrons by providing law enforcement officers with an  
19 additional crime-fighting tool that does not infringe on any person's basic rights.

20 (b) Prohibition. In the City and County of San Francisco, it shall be unlawful for any person  
21 to loiter outside any nightclub between the hours of 9 p.m. and 3 a.m. when the nightclub is open for  
22 business.

23 (c) Definitions.

24 (1) For the purpose of this ordinance, unless a person is engaged in an activity described in  
25 Subsection (d), a person loiters outside a nightclub when the person remains as a pedestrian for a

1 period of over three (3) minutes within ten (10) feet from the entrance to the nightclub or within ten  
2 (10) feet from any point on any lines formed at the entrance to a nightclub.

3 (2) For the purposes of this ordinance, a nightclub is a Place of Entertainment as defined in  
4 Police Code Section 1060.

5 (d) **Application.** This ordinance is not intended to prohibit any person from engaging in any  
6 lawful activity that must be conducted within ten (10) feet from the entrance to a nightclub or ten (10)  
7 feet from any point at any lines formed at the entrance to a nightclub such as (1) waiting in line to enter  
8 a nightclub, (2) being present in a smoking area designated by the club outside the club for patrons, or  
9 (3) waiting for a bus at a bus stop or waiting in line to enter a theater or other business. Lawful  
10 activity does not include any activity that can be conducted more than ten (10) feet from the entrance to  
11 the nightclub or more than ten (10) feet from any point on any lines formed at the entrance to a  
12 nightclub.

13 (e) **Warning.** Before any law enforcement officer may cite or arrest a person under this  
14 ordinance, the law enforcement officer or personnel working for the nightclub must warn the person  
15 that his or her conduct is in violation of this ordinance and must give the person an opportunity to  
16 comply with the provisions of this ordinance.

17 (f) **Penalties.**

18 (1) **First Conviction.** Any person violating any provision of this section shall be guilty of a  
19 misdemeanor or an infraction. The complaint charging such violation shall specify whether the  
20 violation is a misdemeanor or infraction, which decision shall be that of the District Attorney. If  
21 charged as an infraction, Upon conviction, the violator shall be punished by a fine of not less than  
22 \$50 or more than \$100, and/or community service, for each provision violated. If charged as a  
23 misdemeanor, upon conviction, the violator shall be punished by a fine of not less than \$200  
24 or more than \$500, and/or community service, for each provision violated, or by imprisonment  
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1 in the County Jail for a period of not more than six (6) months, or by both such fine and  
2 imprisonment.

3 (2) **Subsequent Convictions.** In any accusatory pleading charging a violation of this section,  
4 if the defendant has been previously convicted of a violation of this section, each such previous  
5 violation and conviction shall be charged in the accusatory pleading. Any person violating any  
6 provision of this section a second time within a thirty (30)-day period shall be guilty of a misdemeanor  
7 and shall be punished by a fine of not less than \$300 or more than \$500, and/or community service, for  
8 each provision violated, or by imprisonment in the County Jail for a period of not more than six (6)  
9 months, or by both such fine and imprisonment. Any person violating any provision of this section a  
10 third time, and each subsequent time, within a thirty (30)-day period shall be guilty of a misdemeanor  
11 and shall be punished by a fine of not less than \$400 and not more than \$500, and/or community  
12 service, for each provision violated, or by imprisonment in the County Jail for a period of not more  
13 than six (6) months, or by both such fine and imprisonment.

14 (g) **Severability.** If any subsection, sentence, clause, phrase, or word of this section be for any  
15 reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such  
16 decision shall not affect the validity or the effectiveness of the remaining portions of this section or any  
17 part thereof.

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

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22 By: \_\_\_\_\_  
23 PAUL ZAREFSKY  
24 Deputy City Attorney

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