

1 [Entertainment Commission – Place of Entertainment Permits.]

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3 **Ordinance amending the San Francisco Police Code Sections 1060, 1060.1, 1060.2,**
4 **1060.3, 1060.5, 1060.20, 1060.23, 1060.24, 1060.25 and 1060.29; repealing Section**
5 **1060.22; and adding Sections 1060.30 and 1060.31, relating to the application, approval,**
6 **amendment, suspension, revocation, and transfer of Place of Entertainment Permits**
7 **and One Night Event Permits, including changes in penalties for violations of law.**

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

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

13 Section 1. The San Francisco Police Code is hereby amended by amending Section
14 1060, to read as follows:

15 **SEC. 1060. DEFINITIONS.**

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

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

22 (b) "Entertainment." The term "Entertainment" means any of the following, except when
23 conducted as part of the social or educational activities of a bona fide nonprofit club or organization or
24 any elementary or secondary school (kindergarten through twelfth grade), or conducted in a private
25 residence:

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

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

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

13 (d) ~~“Professional Entertainer.” A person who is compensated for his or her performance.~~

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

18 (4) The exhibition or display of entertainment which is distinguished or characterized by an
19 emphasis on matter depicting, describing, or relating to “Specified Sexual Activities” or “Specified
20 Anatomical Areas” as defined herein.

21 (A) Specified Sexual Activities.

22 (i) Human genitals in a state of sexual stimulation, or arousal;

23 (ii) Acts of human masturbation, sexual intercourse, or sodomy;

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1 (iii) Fondling or other erotic touching of human genitals, pubic region, buttock, or female
2 breast.

3 (B) Specified Anatomical Areas.

4 (i) Less than completely and opaquely covered human genitals, pubic hair, buttock, natal
5 cleft, perineum, anal region;

6 (ii) Less than completely and opaquely covered female breasts at or below the areola
7 thereof; and

8 (iii) Human male genitals in a discernibly turgid state, even if completely and opaquely
9 covered.

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

15 (d)(g) "Permittee." The person to whom a permit has been issued under this Article.

16 "Operator." Any person operating a place of entertainment in the City and County of San Francisco,
17 including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in
18 possession, permittee or any other person operating such place of entertainment or amusement.

19 (e)(h) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious,
20 or benevolent, or any other nonprofit organization having a regular membership association
21 primarily for mutual social, mental, political, or and civic welfare, to which admission is limited
22 to members and guests and if the revenue accruing therefrom is shall be used exclusively for
23 the benevolent purposes of said organization and which organization or agency, and if the

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1 organization or agency is exempt from taxation under the Internal Revenue laws of the United
2 States as a bona fide fraternal, charitable, religious, benevolent, or nonprofit organization.

3 ~~(i)~~ *“Admission Charge.” Any charge for the right or privilege to enter any place of*
4 *entertainment including a minimum service charge, a cover charge or a charge made for the use of*
5 *seats and tables, reserved or otherwise.*

6 ~~(f)(j)~~ “Tax Collector.” Tax Collector of the City and County of San Francisco.

7 ~~(g)(k)~~ “Security Plan.” A plan that (i) provides at least one ~~+~~ security guard for every
8 hundred ~~100~~ persons authorized by the Occupancy Permit, (ii) secures a fifty ~~50~~-foot perimeter
9 in all directions around the location of the Place of Entertainment to prevent injury to persons
10 and/or damage to property, and (iii) provides for the orderly disbursement of persons and
11 traffic from the Place of Entertainment. The Entertainment Commission, in consultation with
12 the San Francisco Police Department, may ~~shall~~ develop rules and regulations implementing
13 this section.

14 ~~(h)~~ *“Director.” The Executive Director of the Entertainment Commission or a person*
15 *designated by the Director to act on the his or her behalf.*

16 Section 2. The San Francisco Police Code is hereby amended by amending Section
17 1060.1, to read as follows:

18 **SEC. 1060.1. PERMIT REQUIRED.**

19 It shall be unlawful for any person to own, conduct, operate, maintain, ~~or to participate~~
20 ~~therein~~, or to cause or permit to be conducted, operated, or maintained, any Place of
21 Entertainment ~~place of entertainment~~ in the City and County of San Francisco without first having
22 obtained a permit from the Entertainment Commission.

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

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

11 Any conditional permit granted by the Entertainment Commission will expire nine ~~(9)~~
12 months from the date of the Commission's final decision ~~of the Entertainment Commission~~, if all
13 ~~the~~ other required permits have not been ~~received~~ obtained.

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

19 No person may operate a Place of Entertainment for which a permit has been granted after it is
20 revoked or rescinded, or for any period of time during which the permit has been suspended or is
21 otherwise invalid under this Article or any other law.

22 Section 3. The San Francisco Police Code is hereby amended by amending Section
23 1060.2, to read as follows:

24 **SEC. 1060.2. FILING.**

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

4 Section 4. The San Francisco Police Code is hereby amended by amending Section
5 1060.3, to read as follows:

6 **SEC. 1060.3. APPLICATION FORM.**

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

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

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

22 (c) ~~Whether or not the applicant or any officer or director or member of applicant, as the~~
23 ~~case may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to~~
24 ~~the foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10~~
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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 Place of Entertainment place for which the permit~~
7 ~~is requested and a brief statement of the nature and extent of such authority or and control.~~

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

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

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

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

21 ~~(e) Such information pertinent to the operation of the proposed activity, including~~
22 ~~information as to management, authority control, financial agreements, and lease arrangements, that is~~
23 ~~reasonably related to the factual determinations this ordinance empowers the Entertainment~~
24 ~~Commission to make in reviewing and acting upon permit applications as the Entertainment~~

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

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

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

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

17 ~~(j) — A proposed security plan. (See definition in Section 1060(k).)~~

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

21 Section 5. The San Francisco Police Code is hereby amended by amending Section
22 1060.5, to read as follows:

23 **SEC. 1060.5. DETERMINATION OF APPLICATION.**

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

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

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

23 (d) At the hearing, the applicant and any other interested party, including the Police
24 Department or any other public agency, shall be allowed to introduce evidence and present
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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. Notice of the date of any continuance of the hearing shall be
8 posted in the same place and manner as the original notice for not less than seven ~~(7)~~ days.
9 Upon the applicant's request, the Entertainment Commission shall ~~also~~ issue ~~a~~ conditional
10 approval of the permit application, pending approval of the permit by other City agencies, if
11 sufficient information has been provided to allow for adequate evaluation of the proposal and
12 if grounds for denial, as set forth in Subsection (f), are not present.

13 (f) The Entertainment Commission shall grant a permit pursuant to this Article
14 unless it finds that:

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

19 ~~(2)(ii)~~ The ~~building, structure, equipment or location of the~~ proposed Place of Entertainment
20 ~~place of entertainment~~ cannot adequately accommodate the type and volume of vehicle and
21 pedestrian traffic anticipated; or

22 ~~(3)(iii)~~ The ~~building, structure, equipment or location of the~~ proposed Place of Entertainment
23 ~~lacks place of entertainment lack~~ adequate safeguards to prevent emissions of noise, glare, dust,
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1 and odor that substantially interfere with the public health, safety, and welfare or the peaceful
2 enjoyment of neighboring property; or

3 ~~(4)(iv) The building, structure, or location of the proposed one night event does not have an~~
4 ~~adequate security plan as required by this Section. The permit applicant has not provided a security~~
5 ~~plan that adequately addresses the need to protect the safety of persons and property and to avoid~~
6 ~~pedestrian and vehicular congestion.~~

7 (g) An applicant whose application for a permit ~~or an amendment to a permit~~ has been
8 denied ~~pursuant to this Section~~ may seek immediate judicial review pursuant to California Code
9 of Civil Procedure Section 1085 or Section ~~1094.5~~ 1094.8, as these provisions may be amended,
10 including any successor provisions. The applicant is not required to exhaust his or her
11 administrative remedies before the Board of Appeals.

12 ~~(h) If the Entertainment Commission does not act within the time limit required by Section~~
13 ~~1060.5(a), the Place of Entertainment Permit will be deemed approved.~~

14 Section 6. The San Francisco Police Code is hereby amended by amending Section
15 1060.20, to read as follows:

16 **SEC. 1060.20. SUSPENSION AND REVOCATION.**

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

20 (1) The ~~Place of Entertainment~~ ~~place of entertainment~~ does not comply with or fails to
21 meet ~~all of~~ the health, zoning, fire, and safety requirements or standards of all ~~the~~ laws of the
22 State of California ~~and~~ ~~or~~ ordinances of the City and County of San Francisco applicable to
23 such business operation; or

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

8 (3) The ~~proprietor or person or persons in charge thereof have violated, permitted the~~
9 ~~violation, permittee has engaged in conduct, allowed another person or persons to engage in conduct,~~
10 or failed to take reasonable steps ~~upon request of, after being requested by~~ the Police Department
11 or Entertainment Commission ~~to do so~~, to halt conduct violations on the premises or in
12 connection with the operation of the ~~establishment~~ Place of Entertainment that would constitute a
13 violation of any of the following California laws ~~of the State of California~~: Penal Code code
14 Sections 266h, 266i, 315, 316, 330, 337a, 647(b); Business and Professions Code Sections
15 23300, 25602, 25631, 25657, 25658; Health and Safety Code Sections 11351, 11352, 11359,
16 11360, 11378, 11379, 11378.5, 11379.5; or, the ~~permittee has proprietor or persons in charge~~
17 ~~thereof have~~ implemented, maintained, or permitted any admission or related policy or practice
18 which violates ~~Section 3305 of the~~ San Francisco Police Code Section 3305. Unless expressly
19 provided otherwise, all statutory references in this Section shall refer to such statutes as amended from
20 time to time and shall include successor provisions.

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

1 (5) The permittee has failed to submit a proposed security plan as required by Section
2 1060.31.

3 (6) The permittee has failed to comply with the security plan approved for the Place of
4 Entertainment.

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) ~~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 1060.24 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. The permittee is not
13 required to exhaust his or her administrative remedies before the Board of Appeals.

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

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

19 Section 7. The San Francisco Police Code is hereby amended by repealing Section
20 1060.22:

21 **~~SEC. 1060.22. LICENSE FEES.~~**

22 ~~Every permittee who conducts, permits or assists in conducting or permitting any entertainment~~
23 ~~as defined in Sections 1060 (b) and (c) to be shown, staged, exhibited, or produced in or upon any~~
24 ~~permitted premise shall pay to the Tax Collector an annual license fee, payable in advance.~~

1 ~~The license fee prescribed in this Section is due and payable on a calendar year basis starting~~
2 ~~120 days after the effective date of this Article, prorated with regard to the calendar year on a monthly~~
3 ~~basis. Fees for new licenses issued after the first day of January, 1971, or in any subsequent calendar~~
4 ~~year shall be prorated with regard to the calendar year on a monthly basis.~~

5 Section 8. The San Francisco Police Code is hereby amended by amending Section
6 1060.23, to read as follows:

7 **SEC. 1060.23. LIMITED SUSPENSION.**

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

13 (1) The Place of Entertainment has exceeded the allowable noise emissions, as codified in
14 Article 29 of the Police Code, on three separate dates within a three month time period. Written notice
15 of the proposed suspension shall specify the dates, approximate times, and violations alleged and a
16 copy of the noise emission reports for the alleged violations. Evidence that permittee has exceeded
17 allowable noise emissions shall be based on reports taken by the San Francisco Police Department, the
18 Entertainment Commission staff, or an agent of either in accordance with the measurement procedures
19 set forth in Article 29 of the Police Code. The Director may not issue an order of limited suspension
20 under Subsection (a)(1) unless the reports indicating the alleged noise violations have been
21 communicated within two City business days of each occurrence to the permittee. Communication of
22 the reports may be made in writing by delivering a copy personally or by fax or email. Alternatively,
23 communication of the substance of the reports may be made verbally, either in person or by telephone.
24 These communications shall be made to a person identified by the permittee as responsible for the day-
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1 to-day management of the business. Within three City business days of the communication, however
2 made, the Director shall send a copy of each report via United States First Class Mail to the permittee,
3 postage prepaid. The Director shall maintain on file a document setting forth the method by which the
4 communications were made.

5 (2) The permittee has engaged in conduct that constitutes a nuisance, or has allowed or
6 failed to take reasonable steps to halt the conduct of another person or persons that constitutes a
7 nuisance. This Subsection applies only when the conduct occurred on the premises of, or on any
8 sidewalk abutting, the Place of Entertainment; when the conduct continued after the Director notified
9 the permittee of the problem; and when the Director has informed the permittee of corrective actions to
10 address the problem and the permittee failed to take the corrective actions. For purposes of this
11 Subsection (a)(2):

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

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

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

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

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

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

5 (iii) Revising the security plan for the Place of Entertainment, if the Director has
6 approved the revisions.

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

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

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

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

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

15 (6) The Director may initiate orders of limited suspension under this Section against a
16 Place of Entertainment no more than three times in any twelve-month period. Each order of limited
17 suspension may include multiple violations under Subsection (a)(1)-(2).

18 (c) When a final order of limited suspension has been issued, the permittee may seek
19 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
20 1094.8, as these provisions may be amended, including any successor provisions. The permittee is not
21 required to exhaust his or her administrative remedies before the Board of Appeals.

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

1 Section 9. The San Francisco Police Code is hereby amended by amending Section
2 1060.24, to read as follows:

3 **SEC. 1060.24. SALE OF BUSINESS PROHIBITED; PERMIT AMENDMENT FOR PARTIAL**
4 **TRANSFER OF OWNERSHIP; AND AMENDMENT OF PERMIT CONDITIONS** **TRANSFER**
5 **OF PERMIT.**

6 (a) The owner or owners of a business for which a Place of Entertainment Permit has been
7 issued shall not transfer all ownership interest in the business to any other person. If the owner or
8 owners make such a transfer, they shall surrender the permit to the Entertainment Commission within
9 seven days. No permit shall be transferable except with the written consent of the Entertainment
10 Commission. An application for such a transfer shall be in writing and shall be accompanied by the
11 same filing fee as for an initial application. The written application for such transfer shall contain the
12 same information as requested herein for an initial application for such a permit.

13 (b) No permit issued under this Article is transferable to any other person. The partial
14 transfer of ownership of a business for which a Place of Entertainment Permit has been issued is
15 permitted as set forth in this Section.

16 (c) No person shall partially transfer the ownership of any business for which a Place of
17 Entertainment Permit has been issued without filing an application for an amended permit and
18 obtaining approval as required by this Section. No approval is required if the transfer does not result
19 in any person having an ownership interest of ten percent or more.

20 (d) No person shall engage in a major transfer of ownership without the approval of the
21 Entertainment Commission. "A major transfer of ownership" means a transfer that results in a person
22 owning fifty percent or more of the business, regardless of the form of ownership. An application to
23 amend a permit for a major transfer of ownership shall be in writing and shall be accompanied by the
24 filing fee required by Section 2.26 of this Code. The written application shall contain the same
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1 information as requested herein for an initial application. The Commission shall take action on
2 applications for a major transfer of ownership as set forth in Section 1060.5 within forty-five City
3 business days of receipt of the application. The Commission may extend this period up to ten
4 additional City business days. A person whose application has been denied may seek immediate
5 judicial review pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as
6 these provisions may be amended, including any successor provisions.

7 (e) No person shall engage in a minor transfer of ownership without the approval of the
8 Director. "A minor transfer of ownership" means a transfer that results in a person owning at least ten
9 percent but less than fifty percent of the business, regardless of the form of ownership. An application
10 to amend a permit for a minor change in ownership shall be in writing and shall be accompanied by the
11 filing fee required by Section 2.26 of this Code. The application shall contain the same information as
12 requested herein for an initial application, or such portion as the Director may require. The Director
13 shall act on completed applications within fifteen days. The Director shall approve the application
14 unless he or she determines that denial is warranted under any of the grounds set forth in Section
15 1060.5(f). In the case of a denial, the applicant may appeal to the Entertainment Commission by filing
16 with the Commission Secretary a written request for review within seven City business days of the date
17 the Director sent the decision via United States First Class Mail to the permittee, postage prepaid. The
18 Commission shall hear and decide the appeal within forty-five City business days of the date the
19 request for review is filed. The Commission may extend this period up to ten additional City business
20 days. The Commission shall take action on applications for a major transfer of ownership as set forth
21 in Section 1060.5. An applicant whose application has been denied may seek immediate judicial review
22 pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as these provisions
23 may be amended, including any successor provisions.

1 (f) The Entertainment Commission may revoke a permit for a business if its ownership has
2 been transferred without the approval required by, or in violation of, this Section. (See Section
3 1060.20(d)(3).)

4 (g) A permittee may not operate a Place of Entertainment in any manner inconsistent with
5 any condition that the Entertainment Commission has imposed on the permit. A permittee may request
6 an amendment to a permit to remove or change any such condition by filing a request with the
7 Secretary of the Commission and paying the fee required under Police Code Section 2.26. The
8 Entertainment Commission shall take action on any such applications as provided in Section 1060.5
9 within forty-five City business days of receipt of the request. The Commission may extend this period
10 up to ten additional City business days. An applicant whose application has been denied by the
11 Commission may seek immediate judicial review pursuant to California Code of Civil Procedure
12 Section 1085 or Section 1094.8, as these provisions may be amended, including any successor
13 provisions.

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

17 Section 10 The San Francisco Police Code is hereby amended by amending Section
18 1060.25 to read as follows:

19 **SEC. 1060.25. 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. Any person who engages in the following conduct
22 ~~violates this Article~~ more than once in a ~~12-twelve~~-month period shall be guilty of an infraction or
23 ~~a~~-misdemeanor, at the discretion of the prosecutor.;

1 (1) Owns, conducts, operates, or maintains a Place of Entertainment or a one night event
2 without a valid permit as required by this Article, or

3 (2) Transfers ownership of a business for which a Place of Entertainment Permit has been
4 issued under this Article in violation of, or without obtaining the approval required by, Section
5 1060.24.

6 (b) Each day a person owns, conducts, operates, or maintains a Place of Entertainment or
7 one night event 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
9 hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation of the
10 same prohibition within one year, and five hundred dollars (\$500) for each additional violation of the
11 same prohibition within one year.

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

15 (e) Additionally, any violation of the provisions of this Article or ~~Section 3305~~ of Article
16 33 by a permittee ~~hereunder~~ shall be deemed cause to ~~or to~~ revoke or suspend a permit as set
17 forth in pursuant to Secs. 1060.20 and/or 1060.23 of this Article.

18 Section 11. The San Francisco Police Code is hereby amended by amending Section
19 1060.29 to read as follows:

20 **SEC. 1060.29. ONE NIGHT EVENT PERMIT.**

21 (a) To allow a person to conduct or furnish entertainment on premises for which a Place of
22 Entertainment Permit has not been issued, the Director may issue a One Night Event Permit, subject to
23 the requirements of this Section. There shall be no limit on the number of One Night Event Permits a
24 person may obtain, provided that no more than one permit per month is issued for the same premises.

1 The Entertainment Commission may issue One Night Event Permits for events that will take place on
2 the same premises more than once a month, but shall not issue permits for more than twelve events on
3 the same premises within any twelve-month period. It shall be unlawful for any person to conduct,
4 promote, or sponsor or to cause or to permit to be conducted, promoted, or sponsored any one night
5 occurrence of "entertainment" as defined by this Article without first obtaining a One Night Event
6 permit from the Entertainment Commission.

7 (b) Any ~~place or~~ premises for which a One Night Event Permit ~~permit to operate a one~~
8 ~~night event~~ is sought must conform to the all-existing health, safety, zoning, and fire requirements
9 or standards of all laws of the State of California and ordinances of the City and County of San
10 Francisco, ~~must have a valid public eating place permit from the Department of Public Health,~~ The
11 permit applicant shall be required to obtain all required permits, including any permit required
12 by the Department of Public Health. The Director Entertainment Commission may issue a permit
13 under this Section conditional upon the applicant receiving the other required permits.

14 (c) Every person ~~seeking~~ desiring a One Night Event Permit ~~permit~~ pursuant to this
15 Section Article shall file an application for each event with the Director Entertainment Commission
16 upon a form provided by the Director Entertainment Commission and shall pay a filing fee as
17 provided in Section 2.26 of this Code. Every application for a permit under this Article shall be
18 verified as provided in the California Code of Civil Procedure for the verification of pleadings.
19 Applications shall be filed at least forty days before the proposed date of the one night event in order to
20 provide sufficient time pursuant to Subsection (f) for action by the Director and review on appeal by the
21 Commission if the Director denies the application. Notwithstanding the foregoing, applications may be
22 filed up to two weeks before the proposed date of the one night event and, in such cases, the Director
23 shall inform the applicant that there may be insufficient time for the applicant to file an appeal with the
24 Commission if the Director denies the application.

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1 (d) Any place or premises where a one night event is to be held must have a
2 Security Plan. Proof of such shall be provided by permit applicant at the time of application for
3 a One Night Event Permit ~~one night event permit~~.

4 (e) The Director Entertainment Commission shall grant a permit pursuant to this Article
5 unless the Director ~~it~~ finds that:

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

10 (2)(ii) The building, structure, equipment, or location of the proposed one night event
11 cannot adequately accommodate the type and volume of vehicle and pedestrian traffic
12 anticipated; or

13 (3)(iii) The building, structure, equipment, or location of the proposed one night event
14 lacks ~~lack~~ adequate safeguards to prevent emissions of noise, glare, dust, and odor that
15 substantially interfere with the public health, safety, and welfare or the peaceful enjoyment of
16 neighboring property.

17 (4)(iv) ~~The building, structure, or location of the proposed one night event does not have an~~
18 ~~adequate security plan as required by this Section~~ The permit applicant has not provided a security plan
19 that adequately addresses the need to protect the safety of persons and property and to avoid
20 pedestrian and vehicular congestion.

21 (f) The Director shall determine whether to grant or deny a One Night Event Permit within
22 fourteen days of receipt of a completed application. If the permit is denied, the Director shall state in
23 writing the reason for the denial and shall have the decision served on the applicant within one City
24 business day. Service may be made by personal delivery, fax or email using the contact information
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1 provided by the applicant. In addition, the Director shall send a copy of the decision via United States
2 First Class Mail to the applicant, postage prepaid. The permit applicant may appeal the Director's
3 decision to the Entertainment Commission by filing a request for review within three City business days
4 of service of the Director's decision. The Commission shall hear and decide the appeal within twenty
5 City business days.

6 (g) Notwithstanding Police Code Article 15.2, the Entertainment Commission may issue a
7 One Night Event Permit for an event to which persons are admitted or allowed to remain upon the
8 premises between 2:00 a.m. and 6:00 a.m. For any event for which such a permit is issued, the
9 permittee shall not be required to obtain an Extended-Hours Premises Permit under Article 15.2. The
10 One Night Event Permit shall be subject to reasonable time, place, and manner conditions including
11 but not limited to conditions on amplified sound, in-and-out privileges, admission of minors, and
12 lighting of the premises.

13 (h) Under this Section, a person with a Place of Entertainment Permit wishing to operate
14 between 2:00 a.m. and 6:00 a.m. for one night events may apply for a One Night Event Permit for the
15 premises for which the Place of Entertainment Permit has been issued up to twelve times per year.

16 (i) (f) An applicant whose application for a permit has been denied pursuant to this
17 Section may seek immediate judicial review pursuant to California Code of Civil Procedure Section
18 1085 or Section 1094.8, as these provisions may be amended, including any successor provisions
19 appeal to the Board of Permit Appeals. The applicant shall be required to exhaust his or her
20 administrative remedies before the Entertainment Commission unless the applicant has timely filed an
21 appeal and been notified by the Commission Secretary that there is insufficient time for the Commission
22 to consider and act on the appeal. The applicant is not required to exhaust his or her
23 administrative remedies before the Board of Appeals.

1 Section 12. The San Francisco Police Code is hereby amended by adding Sections
2 1060.30 and 1060.31, to read as follows:

3 **SEC. 1060.30. PERMITTEES REQUIRED TO REPORT INFORMATION.**

4 (a) Every permittee shall file a verified report, as defined by Section 1060.4, with the
5 Entertainment Commission within thirty days after any of the following occurs:

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

9 (2) Any criminal conviction information, for those persons described in Section
10 1060.3(b),(c) and (d) and for persons whose information is required to be reported under this Section
11 to the extent that the conviction falls within the categories specified in those provisions.

12 (b) Any corporation holding a Place of Entertainment Permit shall maintain a record of its
13 shareholders at the principal office of the corporation in California and the record of its shareholders
14 shall be available to the Entertainment Commission for inspection. The corporation shall report within
15 thirty days the issuance or transfer of any shares of stock to any person where the issuance or transfer
16 results in the person owning ten percent or more of the corporate stock.

17 **SEC. 1060.31. SECURITY PLANS.**

18 (a) Each Place of Entertainment shall have a security plan, as defined in Section 1060(g),
19 that has been approved by the Entertainment Commission or the Director, as required by this Article.

20 (b) The Entertainment Commission shall not approve or conditionally approve any
21 application for a Place of Entertainment Permit under this Article unless a security plan has been
22 submitted in connection with such application. The security plan must meet the requirements of Section
23 1060(k) and any implementing rules and regulations, adequately addressing the need to protect the
24 safety of persons and property and preventing pedestrian and vehicular congestion.

1 (c) Every Place of Entertainment that does not have a security plan reviewed and approved
2 by the Entertainment Commission shall submit a proposed security plan to the Director. The Director
3 shall mail notice to each such permittee no later than ninety days from the effective date of this Section
4 to inform such persons of the requirements of this Section. Any permittee subject to the requirements of
5 this Subsection shall submit a proposed security plan no later than thirty days from the date of the
6 Director's written notice.

7 (d) The Director shall review each proposed plan submitted pursuant to Subsection (b) and
8 shall approve or disapprove it. If the Director approves, the permittee must comply with the plan
9 immediately. If the Director disapproves, the permittee may appeal to the Entertainment Commission
10 by filing a written request with the Secretary of the Commission within ten City business days of the
11 date the Director sent the order via United States First Class Mail to the permittee, postage prepaid.
12 The Commission shall either affirm or overturn the Director's decision. The permittee's plan is not in
13 effect pending the Commission's decision. If the Commission overturns the Director's disapproval, the
14 permittee must comply with the plan immediately. If the Commission affirms the Director's
15 disapproval, the permittee must submit a revised plan.

16 (e) The failure of any permittee to submit a security plan as required by this Subsection, to
17 submit a revised security plan after the Director has disapproved if permittee does not appeal, or to
18 submit a revised plan after the Director has disapproved and the Entertainment Commission affirms
19 the disapproval shall result in a suspension of the permit as set forth in Section 1060.20(a)(6) until
20 such time as the permittee complies with the requirement.

21 (f) If the Director determines that conduct constituting a nuisance under Section
22 1060.23(a)(2) has occurred on the premises of a Place of Entertainment or on any sidewalk abutting a
23 permitted premises, or that a Place of Entertainment is attracting such a large number of persons to the
24 premises that its current security plan is inadequate to address safety or traffic concerns, and further
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1 determinates that a revised security plan will address the problem in whole or in part, the Director may
2 issue an order directing the permittee to make such revisions as he or she reasonably determines will
3 address the safety and traffic concerns. To provide the permittee with an opportunity to file an appeal,
4 the Director's order shall not be effective for ten City business days. Any permittee directed to change
5 a security plan under this Subsection may appeal the Director's decision within ten City business days
6 of the date the Director sends the notice via United States First Class Mail, postage prepaid, to the
7 permittee by filing a written request for review with the Entertainment Commission. The permittee
8 shall not be required to comply with the Director's order pending the Commission's action on the
9 matter. The terms "premises" and "any sidewalk abutting a permitted premises" as set forth in this
10 Subsection shall be defined as set forth in Section 1060.23(a)(2)(A) and (B).

11 (g) The permittee shall comply with the security plan as approved under this Article.

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

15 By: _____
16 VIRGINIA DARIO ELIZONDO
17 Deputy City Attorney

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