

[Extended-Hours Premises Permits.]

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2
3 **Ordinance amending the San Francisco Police Code by amending Sections 1070,**
4 **1070.1, 1070.2, 1070.3, 1070.5, 1070.7, 1070.8, 1070.19, 1070.22, and 1070.24, by adding**
5 **Sections 1017.17.1, 1017.17.2, 1017,17.3, 1070.28, 1070.29, 1070.30, 1070.31, 1070.32,**
6 **and 1070.33, and 1070.34; by repealing Sections 1070.4, ~~1070.12~~, 1070.17, 1070.20,**
7 **1070.20-1, 1070.21, and 1070.26; and by adding new Sections 1070.4, 1070.17, and**
8 **1070.20, relating to the application, approval, amendment, suspension, revocation, and**
9 **transfer of Extended-Hours Premises Permits, including changes in penalties.**

10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are *strike-through italics Times New Roman*.
12 Board amendment additions are double-underlined;
13 Board amendment deletions are ~~strike-through 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 amending Sections
16 1070, 1070.1, 1070.2, and 1070.3, to read as follows:

17 **SEC. 1070. DEFINITIONS.**

18 For the purpose of this Article, *unless otherwise provided in this Article*, the following
19 words and phrases shall mean and include:

20 *(a) "Any Sidewalk Abutting the Premises." The sidewalk not more than 50 feet from the*
21 *premises of the Business that is located between the premises and a public street. For purposes of this*
22 *definition, "premises" includes any immediately adjacent area that is owned, leased, or rented by the*
23 *permit applicant or Permittee.*

24 *(b) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious,*
25 *benevolent, or other nonprofit organization for mutual social, mental, political, or civic welfare, to*
which admission is limited to members and guests if the revenue accruing therefrom is used exclusively

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

4 (c) "Bona Fide Public Eating Place." A place which is regularly and in a bona fide
5 manner used and kept open for the serving of meals to guests for compensation, with and which
6 has suitable kitchen facilities connected therewith, containing conveniences for cooking an
7 assortment of foods which may be required for ordinary meals, the kitchen of which must be kept
8 in a sanitary condition with the proper amount of refrigeration for keeping of food on said
9 premises and must comply with all the regulations of the Department of Public Health. "Meals"
10 means the usual assortment of foods commonly ordered at various hours of the day; the
11 service of such food and victuals only as sandwiches or salads shall not be deemed a
12 compliance with this requirement. "Guests" shall mean persons who, during the hours when
13 meals are regularly served therein, come to a bona fide public eating place for the purpose of
14 obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in
15 this Section, however, shall be construed to require that any food be sold or purchased with
16 any beverage.

17 (d) "Business." The enterprise for which a permit is sought or has been issued under this
18 Article, whether operated on a for-profit or not-for-profit basis.

19 (e) "Conduct that Constitutes a Nuisance." Any conduct that would constitute a violation of
20 the following laws: assault and battery (Cal. Penal Code §240, 242, 245); sexual battery (Cal. Penal
21 Code §243.4); discharging firearm (Cal. Penal Code §246, 246.3); unlawful weapons (Cal. Penal
22 Code §12020; S.F. Police Code §1291); disturbing the peace (Cal. Penal Code § 415, 416, 417);
23 unlawful threats (Cal. Penal Code §422); obstruction of pedestrian or vehicle right of way (Cal. Penal
24 Code § 370); gambling (Cal. Penal Code §§ 330, 337a); rape (Cal. Penal Code §261); statutory
25 rape (Cal. Penal Code §261.5); prostitution and related offenses (Cal. Penal Code §§ 266, 266a,

1 266e, 266h, 266i, 315, 316, 647(b)); sex crimes for which registration is required under the Sex
2 Offender Registration Act (Cal. Penal Code §290); felony sexual assault; loitering for lewd or
3 lascivious purposes (Cal. Penal Code §647(d)); loitering on private property without lawful business
4 (Cal. Penal Code §647(h)); identify theft (Cal. Penal Code §530.5); a violent felony warranting
5 enhancement of a prison term (Cal. Penal Code §667.5); criminal gang activity (Cal. Penal Code
6 §186.22); drug offenses (Cal. Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379,
7 11378.5, 11379.5); violation of Alcohol Beverage Control laws (Cal. Business & Professions Code §§
8 23300, 25602, 25631, 25657, 25658); public urination or defecation (San Francisco Police Code
9 §153); accumulation of filth (Cal. Health & Safety Code § 17920.3(j)); or excessive noise emissions
10 (San Francisco Police Code Section 49 or Article 29).

11 (f) "Corrective Action." Action which includes, but is not limited to, the following:

12 (1) Requesting assistance from the local law enforcement agency in a timely manner
13 regarding the conduct.

14 (2) Requesting those individuals engaging in Conduct that Constitutes a Nuisance to cease
15 the conduct, or ejecting those Persons from the premises.

16 (3) Revising the Security Plan, subject to approval by the Entertainment Commission or the
17 Director as provided under this Article.

18 (g) "Dance Academy." The term "Extended-Hours Premises" also includes a dance
19 academy wherein students are admitted between 2:00 a.m. and 6:00 a.m., and instruction is given in
20 ballroom or other types of dancing, whether to the students in groups or individually.

21 (h) "Director." The Executive Director of the Entertainment Commission or an individual
22 designated by the Director to act on his or her behalf.

23 (i) "Entertainment." Any of the following, except when conducted in a private residence:

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

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

4 (3) A fashion or style show.

5 (4) The act of any female professional entertainer, while visible to any customer, who
6 exposes the breast or employs any device or covering which is intended to simulate the breast, or wears
7 any type of clothing so that the breast may be observed.

8 (j) "Extended-Hours Premises." Every premises to which patrons or members are admitted
9 or which allows patrons or members to remain between 2:00 a.m. and 6:00 a.m. which serves food,
10 beverages, or food and beverages, including but not limited to, alcoholic beverages, for consumption
11 on the premises or wherein Entertainment as defined in Subsection (i) is furnished or occurs upon the
12 premises. The term includes a "Dance Academy."

13 (k) "Manager. The individual authorized by the Permittee to exercise discretionary power
14 to organize, direct, carry out or control the operations of the Business.

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

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

20 (n) "Security Guard." A person who has a valid Proprietary Private Security Officer
21 registration document issued by the California Department of Consumer Affairs; or a person who is a
22 Patrol Special Police Officer appointed by the Police Commission or an assistant to a Patrol Special
23 Police Officer and is operating in accordance with rules of the Police Commission governing
24 Patrol Special Police Officers and assistants to Patrol Special Police Officers.

1 (o) "Security Plan." A plan that adequately addresses the safety of persons and property by
2 (i) providing a ratio of one Security Guard to a specific number of individuals as described in
3 the paragraph immediately below at least one Security Guard for every 100 individuals
4 anticipated to be present at any one time during Entertainment events on the premises of the
5 Business, (ii) securing the sidewalk for a 100-foot radius in all directions around the premises of the
6 Business to prevent injury to persons and/or damage to property, and (iii) providing for the orderly
7 dispersal of individuals and traffic from the premises of the Business and within 100 feet of any door
8 that patrons use to enter or exit the premises. The phrase "100 feet" in (iii) of this Subsection (o)
9 means 100 feet from the door in both directions on the same side of the street as the premises of the
10 Business. The plan shall include sufficient staff with the requisite experience to implement the plan.

11 The Security Plan must provide at least one Security Guard for every 100 individuals
12 anticipated to be present at any one time during Entertainment events on the premises of the
13 Business, with the following two qualifications. There must always be at least one Security
14 Guard for every 100 individuals actually present at any one time during Entertainment events
15 on the premises of the Business. Further, in those areas of the City where a conditional use
16 authorization is required for a late night use, on Fridays from 9:00 p.m. until closing (including
17 early morning hours Saturday) and Saturdays from 9:00 p.m. until closing (including early
18 morning hours Sunday) the Security Plan must provide at least one Security Guard for every
19 100 individuals authorized by the Occupancy Permit during Entertainment events on the
20 premises of the Business.

21 The definition of Security Plan in this subsection 1060(o) does not limit the discretion of
22 the Entertainment Commission and Director as specified in this Article to impose more
23 stringent requirements for a Security Plan as circumstances warrant.

24 (p) "Tax Collector." Tax Collector of the City and County of San Francisco.
25

1 (g) "Professional Entertainer." A person who is compensated for his or her
2 performance. This definition does not restrict the definition of "Entertainment" in Subsection
3 (i) and is relevant only to the extent the term "professional entertainer" is used in this Article.

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

9 ~~(1) Dance Academies. An extended hours premises shall also include a dance academy~~
10 ~~wherein students are admitted between the hours of 2:00 a.m. and 6:00 a.m., and instruction is given in~~
11 ~~ballroom or other types of dancing, whether given to the students in groups or individually.~~

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

19 ~~"Entertainment," in addition, is defined to mean and include the playing upon or use of any~~
20 ~~instrument that is capable of or can be used to produce musical sounds or percussion sounds, including~~
21 ~~but not limited to, reed, brass, percussion or string-like instruments; provided, further, that~~
22 ~~"entertainment" is defined to mean any instrument or device capable of producing or reproducing~~
23 ~~sound, which device is located in a premises open between the hours of 2:00 a.m. and 6:00 a.m.~~

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

8 ~~(e) Operator. Any person operating an extended-hours premises in the City and County of San~~
9 ~~Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee,~~
10 ~~mortgagee in possession, licensee or any other person operating such place of entertainment or~~
11 ~~amusement.~~

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

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

21 ~~(h) Tax Collector. Tax Collector of the City and County of San Francisco.~~

22 ~~(i) "Bona Fide Public Eating Place." A place which is regularly and in bona fide manner used~~
23 ~~and kept open for the serving of meals to guests for compensation and which has suitable kitchen~~
24 ~~facilities connected therewith, containing conveniences for cooking an assortment of foods which may~~
25 ~~be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the~~

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

9 **SEC. 1070.1. PERMIT REQUIRED.**

10 (a) It shall be unlawful for any Person to own, conduct, operate, maintain, or to cause or
11 permit to be conducted, operated, or maintained, an Extended-Hours Premises in the City and County
12 of San Francisco without first having obtained a permit from the Entertainment Commission.

13 (b) It shall be unlawful for any Person to own, conduct, operate or maintain, or cause or
14 permit to be conducted, operated, or maintained, an Extended-Hours Premises for which a permit has
15 been granted (1) after the permit has been revoked or is otherwise invalid or (2) for any period of time
16 during which the permit has been suspended.

17 (c) It shall be unlawful for any Person who is required to surrender a permit upon the sale
18 of a Business as required under Section 1070.22 to fail to do so.

19 (d) Any place or premises where an Extended-Hours Premises Permit is sought
20 must conform to all existing health, safety, zoning, and fire ordinances of the City and County
21 of San Francisco, and must have a valid permit to operate (formerly referenced in this Article
22 as a public eating place permit) from the Department of Public Health. The Entertainment
23 Commission may issue a permit under this Article conditional upon the applicant receiving the
24 other required permits.

1 ~~It shall be unlawful for any person to own, conduct, operate, maintain or to participate therein,~~
2 ~~or to cause or permit to be conducted, operated or maintained, any extended-hours premises in the City~~
3 ~~and County of San Francisco without first having obtained a permit from the Entertainment~~
4 ~~Commission.~~

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

9 ~~Any permit granted by the Entertainment Commission conditional upon the applicant receiving~~
10 ~~other required permits may be appealed to the Board of Appeals. Such appeal must be filed within 10~~
11 ~~days of the final decision of the Entertainment Commission issuing the conditional permit.~~

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

15 **SEC. 1070.2. FILING APPLICATION, NOTICE TO OTHER CITY DEPARTMENTS,**
16 **AND DEPARTMENTAL REPORTS.**

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

20 (b) The Director shall send the application to the San Francisco Police Department, Fire
21 Department, Department of Building Inspection, Department of Public Health, and Planning
22 Department. Those departments shall complete all necessary inspections and report their
23 determinations to the Entertainment Commission within 20 City business days of receiving the
24 application.

25 **SEC. 1070.3. APPLICATION FORM.**

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1 ~~Operators under any permit issued pursuant to this Article shall be limited to the terms of the~~
2 ~~application.~~ Except as otherwise provided herein, an application for a permit for a Business
3 pursuant to the provisions of this Article shall specify for that Business the same information
4 required under Section 1060.3 of this Code for applications for Place of Entertainment Permits and the
5 applicant shall sign the application under penalty of perjury.

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

8 ~~(b) The name and proposed business address of the applicant. If the applicant is a~~
9 ~~corporation, the name of the corporation shall be set forth exactly as shown in its articles of~~
10 ~~incorporation; and the applicant shall also set forth the date and place of incorporation; the names and~~
11 ~~residence addresses of each of the officers, directors, and each stockholder owning more than 10~~
12 ~~percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth~~
13 ~~the name and residence address of each of the partners, including limited partners. If one or more of~~
14 ~~the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.~~

15 ~~(c) Whether or not the applicant or any officer or director or member of applicant, as the case~~
16 ~~may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to the~~
17 ~~foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10~~
18 ~~percent of the stock of such corporation has ever been convicted of any crime except misdemeanor~~
19 ~~traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be~~
20 ~~made giving the name of the person so convicted, the place and court in which the conviction was had,~~
21 ~~the specific charge under which the conviction was obtained, and the sentence imposed as the result of~~
22 ~~said conviction.~~

23 ~~(d) The names and addresses of the persons who have authority or control over the place for~~
24 ~~which the permit is requested, and brief statement of the nature and extent of such authority and~~
25 ~~control.~~

1 ~~(e) Such information pertinent to the operation of the proposed activity, including information~~
2 ~~as to management, authority, control, financial agreements, and lease arrangements, that is reasonably~~
3 ~~related to the factual determinations this ordinance empowers the Chief to make in reviewing and~~
4 ~~acting upon permit applications as the Chief of Police may require of an applicant in addition to the~~
5 ~~other requirements of this Section. The foregoing examples are in explanation and not in limitation of~~
6 ~~the information which the Entertainment Commission may require.~~

7 ~~(f) A business plan for the proposed extended hours premises, specifying the days and hours of~~
8 ~~operation, the number of patrons, the numbers of employees and their duties, the identity of the~~
9 ~~manager or managers who shall be on premises during all hours of operation, the types or classes of~~
10 ~~entertainment (in terms of the types of instruments, numbers of performers and sound levels) to be~~
11 ~~provided, and the amount of parking, both on-site and off-site, to be provided. If sound amplification is~~
12 ~~to be used, the plan shall also include a specific description of the amplification system.~~

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

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

16 ~~(i) The Entertainment Commission may require further information as he or she deems~~
17 ~~necessary.~~

18 Section 2. The San Francisco Police Code is hereby amended by repealing Section
19 1070.4.

20 ~~**SEC. 1070.4. VERIFICATION OF APPLICATION.**~~

21 ~~Every application for a permit under this Article shall be verified as provided in the California~~
22 ~~Code of Civil Procedure for the verification of pleadings.~~

23 Section 3. The San Francisco Police Code is hereby amended by adding Section
24 1070.4, to read as follows:

25 ~~**SEC. 1070.4. NOTICE REQUIREMENTS AND CONTACT INFORMATION.**~~

1 (a) Unless otherwise provided in this Article, the following definitions apply.

2 (i) To provide notice "electronically" means to send written notice by email, facsimile or in
3 any other manner that the Director designates as appropriate to transmit written information other
4 than by mail or personal delivery.

5 (ii) To "mail" notice or give notice "by mail" means depositing the notice in a sealed
6 envelope or package, clearly labeled to identify the individual to whom it is sent, in a post office,
7 mailbox, or other facility regularly maintained by the United States Postal Service, by First Class Mail,
8 with postage prepaid. The requirement that notice be mailed within a specified period of time means
9 that the notice is deposited in the mail within that period of time.

10 (iii) "Personally deliver" or "personal delivery" means delivering notice or causing notice to
11 be delivered in person.

12 (iv) "Notice" means notice of a hearing, decision, action required of an applicant for a
13 permit or a Permittee, or any other information that this Article requires to be given or which the
14 Entertainment Commission or the Director find appropriate in implementing the provisions of this
15 Article.

16 (b) Applicants for a permit and Permittees shall provide information necessary to enable
17 the Entertainment Commission and the Director to give notice under this Article. Applicants and
18 Permittees shall provide the Director in writing with a street address where the applicant and
19 Permittee receive mail from the United States Postal Service, and with any email address, facsimile
20 number or other information necessary to enable notice to be sent to the applicant and Permittee
21 electronically. The applicant and Permittee shall keep the information required by this Section current
22 by informing the Director in writing of any change. When the Commission or Director mails or
23 personally delivers notice or sends notice electronically to the applicant or Permittee in accordance
24 with the information most recently provided in writing by that Person, such action shall satisfy the
25 requirements of this Article with respect to how notice is given.

1 (c) In some circumstances, this Article requires notice to the Manager. The Permittee shall
2 provide a telephone and/or cell phone number and a facsimile number or email address for the
3 transmission of notice to the Manager. The Permittee shall keep current the contact information for the
4 Manager and shall notify the Director in writing of any change in this information. The Manager may
5 designate other individuals to whom notice is to be given for any periods of the Manager's absence or
6 unavailability by providing this information in writing to the Director. When the Commission or
7 Director mails or personally delivers notice or sends notice electronically to the Manager, or to any
8 individual designated by the Manager to receive notice in place of the Manager, in accordance with the
9 information most recently provided in writing by the Permittee for the Manager, or by the Manager for
10 his or her designee, such action shall satisfy the requirements of this Article that notice be given to the
11 Manager.

12 (d) The Director may require applicants, Permittees and Managers to provide different or
13 additional contact information for receipt of notice as communication technologies change.

14 (e) A Permittee may change the name and/or address of the individual provided by the
15 Permittee in the permit application to accept service of process by providing written notice to the
16 Director.

17 Section 4. The San Francisco Police Code is hereby amended by amending Section
18 1070.5, to read as follows:

19 **SEC. 1070.5. DETERMINATION OF APPLICATION.**

20 The procedures and standards set forth in Section 1060.5 of this Code shall govern the review
21 and determination of applications for Extended-Hours Premises Permits.

22 ~~(a) When an application is filed for a new permit under this Article, the Entertainment~~
23 ~~Commission shall fix a time and place for a public hearing thereon to determine whether issuance of~~
24 ~~the permit would result in any of the conditions set forth in Subsection (e). The hearing must be held~~
25 ~~within 45 working days of the date the completed application is received.~~

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

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

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

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

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

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

7 (ii) ~~The building, structure, equipment or location of the proposed extended hours premises~~
8 ~~cannot adequately accommodate the type and volume of vehicle and pedestrian traffic anticipated; or~~

9 (iii) ~~The building, structure, equipment or location of the proposed extended hours premises~~
10 ~~lack adequate safeguards to prevent emissions of noise, glare, dust and odor that substantially interfere~~
11 ~~with the public health, safety and welfare or the peaceful enjoyment of neighboring property.~~

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

16 Section 5. The San Francisco Police Code is hereby amended by amending Sections
17 1070.7 and 1070.8, to read as follows:

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

19 (a) No ~~Permittee operator of an extended hours premises~~ shall employ or permit any
20 hostess, entertainer, or ~~Person person~~ to solicit any patron or customer of or visitor in said
21 ~~Extended-Hours Premises extended hours premises~~ to purchase any beverage or merchandise for
22 the one soliciting or for any other ~~Person person~~.

23 (b) No ~~Permittee operator of an extended hours premises~~ shall employ any hostess or
24 entertainer for the purpose of procuring or encouraging the purchase or sale of beverages or
25 merchandise, or pay any such hostess or entertainer a percentage or commission on the sale

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1 of beverages or merchandise for procuring or encouraging the purchase or sale of beverages
2 or merchandise on said premises.

3 **SEC. 1070.8. SOLICITATION OF TRADE.**

4 No *Permittee operator of an extended-hours premises* shall permit or allow or cause any
5 *Person, including any* employee of the *Extended-Hours Premises, extended-hours premises* to solicit
6 by personal solicitation or otherwise, or by means of any device whereby the voice of the
7 person soliciting can be heard at or near such entrance.

8 Section 6. ~~The San Francisco Police Code is hereby amended by repealing Section~~
9 ~~1070.12:~~

10 **~~SEC. 1070.12. MISCELLANEOUS RULES.~~**

11 No professional entertainer or employee may dance, unnecessarily converse, or
12 associate with any customer on the premises in any extended-hours premises; provided,
13 however, that a regularly scheduled audience participation type of entertainment may be
14 presented during the time slated and in the manner described in an advertisement posted in a
15 regularly printed program. Provided, further, that a copy of said advertisement shall be
16 received by the Entertainment Commission 24 hours prior to the conducting of said audience
17 participation entertainment.

18 Section 76. The San Francisco Police Code is hereby amended by repealing Section
19 1070.17:

20 ~~SEC. 1070.17. SUSPENSION AND REVOCATION.~~

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

24 ~~(1) The building, structure, equipment or location of the proposed extended-hours premises~~
25 ~~does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards~~

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

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

9 ~~(3) The proprietor or persons in charge thereof have violated, permitted the violation, or failed~~
10 ~~to take reasonable steps, after being requested by the Police Department or Entertainment Commission~~
11 ~~to do so, to halt violations on the premises or in connection with the operation of the establishment, of~~
12 ~~any following laws of the State of California: Penal Code Sections 266h, 266i, 315, 316, 330, 337a,~~
13 ~~657(b); Business and Professions Code Sections 23300, 25602, 25631, 25657, 25658; Health and~~
14 ~~Safety Code Sections 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5; or, the proprietor~~
15 ~~or persons in charge thereof have implemented, maintained or permitted any admission or related~~
16 ~~policy or practice which violates Section 3305 of the San Francisco Police Code.~~

17 ~~(4) The proprietor or persons in charge thereof have violated or permitted the violation of any~~
18 ~~other provision of this Article or of the permit, on the premises or in connection with the operation of~~
19 ~~the establishment.~~

20 ~~(b) The penalty for the first violation under Subsection (a) within a period of six months shall be~~
21 ~~suspension of said permit for a period of 30 days. The penalty for the second violation within a period~~
22 ~~of six months shall be suspension of said permit for a period of 60 days. The penalty for the third and~~
23 ~~subsequent violations within a period of six months shall be suspension of said permit for a period of~~
24 ~~90 days. For the purposes of this Subsection, calculation of the six months shall not include any period~~
25 ~~of time during which the permit was suspended.~~

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

4 ~~(1) The permittee has knowingly made any false, misleading or fraudulent statement of material~~
5 ~~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 permanently ceased operation of the business.~~

8 ~~(d) A revocation pursuant to Subsection (c) shall not prejudice the right of an applicant to apply~~
9 ~~for a new permit.~~

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

13 Section 87. The San Francisco Police Code is hereby amended by adding Sections
14 1070.17, 1070.17.1, 1070.17.2, and 1070.17.3, to read as follows:

15 **SEC. 1070.17. SUSPENSION.**

16 (a) Permits issued under this Article may be suspended by the Entertainment Commission
17 and the Director as follows:

18 (1) The Entertainment Commission may suspend a permit issued under this Article as
19 provided in Section 1070.17.1.

20 (2) The Director may issue an order of limited suspension as provided in Section 1070.17.2,
21 which order the Permittee may appeal to the Entertainment Commission.

22 (3) The Director may issue an order of suspension for public safety as provided in Section
23 1070.17.3, which order is not appealable to the Entertainment Commission.

24 (4) The Entertainment Commission and the Director have independent authority to suspend
25 permits; the action of one does not limit action by the other.

1 **(b) Every Permittee shall request emergency medical services when any person who has**
2 **been injured on the premises of the Business needs emergency medical services. The failure to request**
3 **such services, when such a request would have been reasonable under the circumstances, shall be**
4 **grounds for suspension of the permit. The Entertainment Commission and Director may allow any**
5 **circumstances involving the operation of the Business that relate to the injury as evidence supporting**
6 **suspension of a permit, but may not allow the request itself as evidence to support suspension.**

7 **(c) When considering whether to ~~grant a permit application or to suspend or revoke a~~**
8 **permit under this Article, the Commission and the Director ~~may~~ shall consider any previous denial of**
9 **a permit application or previous suspension or revocation of a permit, under this Article or Article**
10 **15.1, for the same permit applicant or Permittee when the circumstances warranting the previous**
11 **action are relevant to the current determination.**

12 **SEC. 1070.17.1. SUSPENSION BY THE ENTERTAINMENT COMMISSION.**

13 **(a) GROUNDS FOR SUSPENSION. The Entertainment Commission may suspend any**
14 **permit issued under this Article under any of the following circumstances:**

15 **(1) The premises or operation of the Business does not comply with the health, zoning, fire,**
16 **and safety requirements of the laws of the State of California and ordinances of the City and County of**
17 **San Francisco applicable to the Business; or**

18 **(2) The Permittee or an employee or agent of the Permittee has operated the Business:**

19 **(i) In a manner that has harmed the public health, safety, or welfare by significantly**
20 **increasing pedestrian congestion, the incidence of disorderly conduct, or the level of noise in the area**
21 **in which the premises are located, and**

22 **(ii) The Permittee has refused or failed, upon request by the Police Department,**
23 **Entertainment Commission or the Director, to take reasonable steps to alleviate these conditions, such**
24 **as providing additional off-street parking, security, soundproofing, restroom facilities, or refuse**
25 **containers; or**

1 (3)(i) The Permittee or any employee or agent of the Permittee has engaged in conduct on the
2 premises of the Business, or in connection with the operation of the Business, that would constitute a
3 violation of any of the following laws: assault and battery (Cal. Penal Code §§240, 242, 245); sexual
4 battery (Cal. Penal Code §243.4); discharging firearm (Cal. Penal Code §§246, 246.3); unlawful
5 weapons (Cal. Penal Code §12020; S.F. Police Code §1291); disturbing the peace (Cal. Penal Code
6 §§415, 416, 417); unlawful threats (Cal. Penal Code §422); obstruction of pedestrian or vehicle right
7 of way (Cal. Penal Code §370); gambling (Cal. Penal Code §§330, 337a); rape (Cal. Penal Code
8 §261); statutory rape (Cal. Penal Code §261.5); prostitution and related offenses (Cal. Penal
9 Code §§ 266, 266a, 266e, 266h, 266i, 315, 316, 647(b)); sex crimes for which registration is required
10 under the Sex Offender Registration Act (Cal. Penal Code §290); felony sexual assault; loitering for
11 lewd or lascivious purposes (Cal. Penal Code §647(d)); loitering on private property without lawful
12 business (Cal. Penal Code §647(h)); identify theft (Cal. Penal Code §530.5); a violent felony
13 warranting enhancement of a prison term (Cal. Penal Code §667.5); criminal gang activity (Cal.
14 Penal Code §186.22); drug offenses (Cal. Health & Safety Code §§11351, 11352, 11359, 11360,
15 11378, 11379, 11378.5, 11379.5); violation of Alcohol Beverage Control laws (Cal. Business &
16 Professions Code §§ 23300, 25602, 25631, 25657, 25658); public urination or defecation (San
17 Francisco Police Code §153); accumulation of filth (Cal. Health & Safety Code §17920.3(j)); or
18 excessive noise emissions (San Francisco Police Code Section 49 or Article 29); or

19 (ii) The Permittee has failed to take reasonable steps within the Permittee's control upon the
20 request of the Police Department, the Entertainment Commission or the Director to halt conduct on the
21 premises of the Business, or in connection with the operation of the Business, that would constitute a
22 violation of the laws set forth in Section (a)(3)(i) of this Section; or

23 (iii) The Permittee in the operation of the Business has implemented, maintained, or
24 permitted an admission or related policy or practice prohibited by San Francisco Police Code Section
25 3305 (prohibiting discrimination); or

1 (4) The Permittee or any employee or agent of the Permittee has violated any requirement
2 of this Article or any other applicable ordinance, any regulation adopted pursuant to this Article, or
3 any condition placed on the permit; or

4 (5) The Permittee has failed to submit a proposed Security Plan as required by Section
5 1070.28; or

6 (6) The Permittee or any agent or employee of the Permittee has failed to comply with an
7 approved Security Plan or a revised Security Plan as required by Sections 1070.28 and 1070.29; or

8 (7) The Permittee or any agent or employee of the Permittee has failed to request
9 emergency medical services as required by Section 1070.17(b).

10 (b) HEARING PROCEDURE AND DETERMINATION.

11 (i) The Entertainment Commission shall give the Permittee and the Manager written notice
12 of a hearing to determine whether to suspend a permit. The notice shall set forth the grounds for the
13 proposed suspension and the date, time and location of the hearing.

14 (ii) The Chief of Police or the Chief's designee may request in writing that the
15 Director bring a suspension proceeding before the Entertainment Commission. If, within 10
16 business days of receiving the request, the Director has not brought the suspension
17 proceeding, the Chief may bring the suspension proceeding before the Entertainment
18 Commission. In such a case, the Chief or the Chief's representative shall present the case for
19 suspension, except that the Director may join in presenting the case for suspension if the
20 Director agrees to do so.

21 (c) PERIOD OF SUSPENSION. The Entertainment Commission may suspend a permit for
22 the periods of time set forth in this Subsection (c).

23 (i) For the first violation under Subsection (a)(1) through (6) of this Section, for up to 30
24 days.

1 (ii) For the second violation of the same or any other provision of Subsection (a)(1) through
2 (6) within six months of the order of suspension for the first violation, for up to 60 days.

3 (iii) For the third and subsequent violation of the same or any other provision of Subsection
4 (a)(1) through (6) within six months of the order of suspension for the second or any subsequent
5 violation, for up to 90 days.

6 (iv) For the purpose of Subsections (c)(ii) and (iii) of this Section, calculation of the six
7 months shall not include any period of time during which the permit was suspended.

8 (v) In determining the length of the suspension, the Entertainment Commission shall
9 consider the seriousness and the frequency of the violation(s) in light of the effort taken to correct them
10 and the impact of the violation(s) on the surrounding neighborhood.

11 **SEC. 1070.17.2. LIMITED SUSPENSION BY THE DIRECTOR; APPEAL TO**
12 **ENTERTAINMENT COMMISSION.**

13 (a) GROUNDS FOR SUSPENSION. The Director may suspend any permit issued under
14 this Article for a period of up to seven days if the Director determines, after providing the Permittee
15 and the Manager at least five days written notice and an opportunity to respond, that any of the
16 circumstances set forth in either Subsections (a)(1), (2) or ~~(2)~~(3) of this Section has occurred. Each
17 order of limited suspension may include multiple violations under Subsections (a)(1), (2), or ~~and (2)~~
18 (3) of this Section. The Director shall provide the written notice required under this Subsection either
19 by mail and electronically or by personal delivery.

20 (1) The Business has exceeded the allowable noise emissions under Section 49 or Article 29
21 of the San Francisco Police Code, or as required under any condition imposed on the permit, on three
22 separate days within a three month time period. The Director may suspend a permit under this
23 Subsection (a)(1) only if:

24 (i) The San Francisco Police Department, the Director, or an authorized agent of either
25 has issued a noise emission report for each violation showing noise levels that exceed those allowed

1 under Section 49 or Article 29 of the San Francisco Police Code, or as required under any condition
2 imposed on the permit, and

3 (ii) The Director has provided notice of the issuance of each noise emission report
4 described in Subsection (a)(1) to the Permittee or the Manager electronically or by mail within three
5 City business days of its issuance.

6 (2) The Permittee or any employee or agent of the Permittee has engaged in Conduct that
7 Constitutes a Nuisance or the Permittee has failed to take reasonable steps within the Permittee's
8 control to halt another Person from engaging in Conduct that Constitutes a Nuisance. "Conduct that
9 Constitutes a Nuisance" as defined in Section 1070(e), means any conduct that would constitute a
10 violation of the following laws: assault and battery (Cal. Penal Code §240, 242, 245); sexual battery
11 (Cal. Penal Code §243.4); discharging firearm (Cal. Penal Code §246, 246.3); unlawful weapons (Cal.
12 Penal Code §12020; S.F. Police Code §1291); disturbing the peace (Cal. Penal Code § 415, 416, 417);
13 unlawful threats (Cal. Penal Code §422); obstruction of pedestrian or vehicle right of way (Cal. Penal
14 Code § 370); gambling (Cal. Penal Code §§ 330, 337a); rape (Cal. Penal Code §261); statutory
15 rape (Cal. Penal Code §261.5); prostitution and related offenses (Cal. Penal Code §§ 266, 266a,
16 266e, 266h, 266i, 315, 316, 647(b)); sex crimes for which registration is required under the Sex
17 Offender Registration Act (Cal. Penal Code §290); felony sexual assault; loitering for lewd or
18 lascivious purposes (Cal. Penal Code §647(d)); loitering on private property without lawful business
19 (Cal. Penal Code §647(h)); identify theft (Cal. Penal Code §530.5); a violent felony warranting
20 enhancement of a prison term (Cal. Penal Code §667.5); criminal gang activity (Cal. Penal Code
21 §186.22); drug offenses (Cal. Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379,
22 11378.5, 11379.5); violation of Alcohol Beverage Control laws (Cal. Business & Professions Code §§
23 23300, 25602, 25631, 25657, 25658); public urination or defecation (San Francisco Police Code
24 §153); accumulation of filth (Cal. Health & Safety Code § 17920.3(j)); or excessive noise emissions
25 (San Francisco Police Code Section 49 or Article 29).

1 This Subsection (a)(2) applies only when both of the following apply:

2 (i) The conduct occurred on the premises of, or on Any Sidewalk Abutting the Premises of,
3 the Business, and

4 (ii) The conduct continued after the Director had notified the Permittee of the problem and
5 informed the Permittee of Corrective Action, as defined in Section 1070, to address the problem, but the
6 Permittee failed to take the Corrective Action.

7 (3) The Permittee or any agent or employee of the Permittee has failed to comply
8 with an approved Security Plan as required by Section 1060.28 or a revised Security Plan as
9 required by Section 1060.29.

10 (b)(1) ISSUANCE OF ORDER; RIGHT TO APPEAL TO COMMISSION. On the day that the
11 Director issues an order of limited suspension, the Director shall send the order to the Permittee and
12 Manager by mail or electronically. The order shall state the date that the order issued and the date
13 that it takes effect. To provide the Permittee with an opportunity to file an appeal to the Entertainment
14 Commission, an order of limited suspension shall not take effect for at least five City business days
15 from the date that the Director issues the order.

16 (2) A Permittee may appeal an order of limited suspension to the Entertainment
17 Commission by filing with the Commission Secretary a written request for review within five City
18 business days of the date that the Director has issued the order. The filing of an appeal stays the order
19 pending the Commission's decision. If a Permittee withdraws the appeal, the Director's order shall no
20 longer be stayed and shall take effect on the date of the withdrawal or the date that the order was to
21 take effect, whichever is later.

22 (3) The Commission may affirm, overturn, or modify the Director's order. When the
23 Commission affirms or modifies the Director's order, the order takes effect the day following the day of
24 the hearing at which the Commission made its determination.

1 (4) If the Permittee does not file a timely appeal of the Director's order, the order shall take
2 effect the day after the time to appeal has expired or the effective date set forth in the order, whichever
3 is later; provided, however, that the Director and the Permittee may agree in writing to an earlier
4 effective date.

5 (5) The Entertainment Commission may adopt a regulation establishing a procedure which
6 would allow the Director or the Commission, or both, to stay and vacate an order of limited suspension
7 if the Permittee submits and complies with a plan to address the problems that gave rise to the
8 suspension.

9 (c) ~~The Director may initiate orders of limited suspension under this Section against~~
10 ~~a Permittee for a Business at a single location no more than three times in any twelve-month~~
11 ~~period. The Director shall initiate suspension proceedings before the Commission under~~
12 Section 1070.17.1 against any Business that is suspended by the Director under this Section
13 three times in any twelve-month period. For purposes of this Subsection (c), "suspended by
14 the Director" includes a suspension affirmed in whole or part or modified by the Commission if
15 appealed pursuant to Subsection (b)(2) but does not include a suspension overturned by the
16 Commission on appeal. This Subsection (c) shall not in any way preclude the Commission
17 from otherwise exercising its authority to suspend a Business under Section 1070.17.1, or
18 preclude the Director or Chief of Police or Chief's designee from initiating a suspension
19 proceeding under Section 1060.17.1.

20 (d) POLICE DEPARTMENT RECOMMENDATION OF LIMITED SUSPENSION BY
21 THE DIRECTOR. The Chief of Police, or the Chief's designee, may recommend to the
22 Director, orally or in writing, that the Director suspend a permit in accordance with the grounds
23 for suspension stated in subsection (a) above. If the recommendation is oral, it shall later be
24 reduced to writing and filed with the Director when time permits. If the Director fails to follow
25 the oral or written recommendation, the Director shall report to the Entertainment Commission

1 both the recommendation and the reason or reasons for not following the recommendation.
2 This report shall occur at the next regular Commission meeting subsequent to the
3 recommendation, consistent with the provisions of the Brown Act and Sunshine Ordinance.
4 For purposes of this subsection (d), the Captain for the district where the Place of
5 Entertainment is located, or the Captain's designee, is deemed the Chief's designee unless
6 the Chief of Police directs otherwise.

7 This subsection (d) shall not preclude any police officer from recommending to the
8 Director that the Director suspend a permit in accordance with the grounds for suspension
9 stated in subsection (a) above.

10 **SEC. 1070.17.3. SUSPENSION FOR PUBLIC SAFETY BY THE DIRECTOR.**

11 (a) GROUND FOR SUSPENSION. The Director may suspend any permit issued under
12 this Article for up to 72 hours if the Director determines, after providing the Permittee at least 8 hours
13 written notice and an opportunity to respond, that any of the circumstances set forth in Subsection
14 (a)(1)(i) or (ii) of this Section has occurred either on the premises of the Business, or on Any
15 Sidewalk Abutting the Premises of the Business, or within 100 feet of the Premises of the Business,
16 provided in this last instance that the person engaging in the conduct that would constitute a
17 violation of a law specified in Subsection (a)(1)(i) had been on the Premises of the Business
18 no more than 30 minutes before engaging in that conduct; that such the conduct has resulted or
19 could have resulted in serious bodily injury or death, and that continued operation of the Business
20 poses a serious threat to public safety.

21 (1)(i) The Permittee or any employee or agent of the Permittee has engaged in conduct that
22 would constitute a violation of any of the following laws: assault and battery (Cal. Penal Code §§240,
23 242, 245); felony sexual assault; sexual battery (Cal. Penal Code §243.4); rape (Cal. Penal Code
24 §261); statutory rape (Cal. Penal Code §261.5); pimping (Cal. Penal Code §266); discharging
25 firearm (Cal. Penal Code §§246, 246.3); unlawful weapons (Cal. Penal Code §12020; S.F. Police

1 Code §1291); disturbing the peace (Cal. Penal Code §§ 415, 416, 417); unlawful threats (Cal. Penal
2 Code §422); a violent felony warranting enhancement of a prison term (Cal. Penal Code §667.5);
3 criminal gang activity (Cal. Penal Code §186.22); or

4 (ii) The Permittee has failed to take reasonable steps within the Permittee's control and
5 within the limits of the law to halt the conduct of another Person that would constitute a violation of
6 any law described in Subsection (a)(1)(i) of this Section.

7 (b) NOTICE OF PROPOSED ORDER. The Director shall provide the written notice
8 required under Subsection (a) of this Section to the Permittee and the Manager by personal delivery
9 and electronically.

10 (c) EFFECTIVE DATE AND TIME OF ORDER. The order of suspension for public safety
11 issued under this Section shall take effect at the date and time stated in the order.

12 (d) DIRECTOR MAY VACATE ORDER. The Director may vacate an order of suspension
13 for public safety if the Director determines that operation of the Business before expiration of the
14 suspension order will not pose a danger to the public because additional information demonstrates that
15 the conduct was not related to the operation of the Business, the Permittee has taken adequate steps to
16 correct the problem giving rise to the suspension, or other circumstances warrant such action.

17 (e) POLICE DEPARTMENT RECOMMENDATION OF SUSPENSION FOR PUBLIC
18 SAFETY. The Chief of Police, or the Chief's designee, may recommend to the Director, orally
19 or in writing, that the Director suspend a permit for public safety in accordance with the
20 grounds for suspension stated in subsection (a) above. If the recommendation is oral, it shall
21 later be reduced to writing and filed with the Director when time permits. If the Director fails to
22 follow the oral or written recommendation, the Director shall report to the Entertainment
23 Commission both the recommendation and the reason or reasons for not following the
24 recommendation. This report shall occur at the next regular Commission meeting subsequent
25 to the recommendation, consistent with the provisions of the Brown Act and Sunshine

1 Ordinance. For purposes of this subsection (e), the Captain for the district where the Place of
2 Entertainment is located, or the Captain's designee, is deemed the Chief's designee unless
3 the Chief of Police directs otherwise.

4 This subsection (e) shall not preclude any police officer from recommending to the
5 Director that the Director suspend a permit for public safety in accordance with the grounds
6 for suspension stated in subsection (a) above.

7 Section 98. The San Francisco Police Code is hereby amended by amending Section
8 1070.19; to read as follows:

9 **SEC. 1070.19. EXCEPTIONS.**

10 (a) The Entertainment Commission may grant an exception to an Extended-Hours
11 Premises ~~extended hours premises~~ as defined herein from the provisions of Sections 1070.11,
12 1070.13, and 1070.16 relating to lighting of the premises, booths, and minors ~~being~~ on the
13 premises if the Entertainment Commission shall find that the Extended-Hours Premises ~~extended-~~
14 ~~hours premises~~ is used exclusively for any of the following purposes:

15 (1) A Bona Fide Public Eating Place ~~bona fide public eating place~~ as defined herein to
16 which the Department of Public Health has issued a public eating place permit ~~has been issued by~~
17 ~~the Department of Public Health~~. Any such Bona Fide Public Eating Place must be kept in a
18 sanitary condition with the proper amount of refrigeration for keeping of food on said premises
19 and must comply with all the regulations of the Department of Public Health.

20 (2) A Place of Entertainment with no ~~place of entertainment that has no~~ liquor license.

21 (3) An Extended-Hours Premises ~~An extended hours premises that is~~ operated by any
22 public agency; ~~or~~ by any educational, recreational, or social agency; or by any Bona Fide
23 Nonprofit Club or Organization ~~bona fide fraternal, charitable, or religious or benevolent or any other~~
24 ~~nonprofit organization having a regular membership association primarily for mutual social, mental,~~
25 ~~political and civic welfare, to which admission is limited to members and guests and revenue accruing~~

1 ~~therefrom is used exclusively for the benevolent purposes of said organization and which organization~~
2 ~~or agency is exempt from taxation under the Internal Revenue laws of the United States as a bona fide~~
3 ~~fraternal, charitable, religious, benevolent or nonprofit organization.~~

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

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

13 (d) ~~—The Board, in addition to its several other duties, shall have the power and it shall be its~~
14 ~~duty to hear and determine appeals from the decisions of the Entertainment Commission made upon~~
15 ~~petition for an exception from the regulations. The Board may affirm or reverse such decision by the~~
16 ~~Entertainment Commission or dismiss the appeals therefrom as may be just, and shall prescribe such~~
17 ~~forms, rules, and regulations relating to appeals as it may deem necessary. In the review of the decision~~
18 ~~by the Entertainment Commission the Board may take such evidence and make such investigation as it~~
19 ~~may deem necessary. It shall give notice of its determinations in writing to the petitioner and shall file a~~
20 ~~copy of each determination with the Entertainment Commission. The determination shall become final~~
21 ~~10 days thereafter. If the Board of Review concurs with the determination of the Entertainment~~
22 ~~Commission, the regulations shall become effective as an order or decision of the Entertainment~~
23 ~~Commission. If the Board of Review overrules the order or decision of the Entertainment Commission,~~
24 ~~the regulations shall not be enforced by the Entertainment Commission.~~

1 Section ~~409~~. The San Francisco Police Code is hereby amended by repealing Section
2 1070.20:

3 ~~**SEC. 1070.20. LIMITED SUSPENSION.**~~

4 ~~Any permit issued under the terms of this Article may be suspended for a period of 30 days by~~
5 ~~the Entertainment Commission if the Entertainment Commission determines after a noticed hearing~~
6 ~~that violation of the regulations or any provisions of the Municipal Code has occurred.~~

7 Section ~~44~~10. The San Francisco Police Code is hereby amended by adding Section
8 1070.20, to read as follows:

9 **SEC. 1070.20. REVOCATION OF A PERMIT.**

10 (a) GROUND FOR REVOCATION. The Entertainment Commission may revoke any
11 permit issued under this Article if it determines after a public hearing that any of the following
12 conditions exist:

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

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

16 (3) The Permittee has failed to surrender the permit as required by Section
17 1070.22(b).

18 (b) HEARING BY COMMISSION. The Entertainment Commission shall give the Permittee
19 and the Manager written notice of a hearing to determine whether to revoke a permit. The notice shall
20 set forth the grounds for the proposed revocation and the date, time and location of the hearing.

21 (c) APPLICATION FOR PERMIT AFTER REVOCATION. The revocation of a permit
22 under this Article shall not preclude the Permittee from applying for a new permit under this Article.

23 (d) When considering whether to ~~grant a permit application or to suspend or revoke a~~
24 permit under this Article, the Commission and the Director ~~may~~ shall consider any previous denial of
25 a permit application or previous suspension or revocation of a permit, under this Article or Article

1 15.1, for the same permit applicant or Permittee when the circumstances warranting the previous
2 action are relevant to the current determination.

3 Section 4211. The San Francisco Police Code is hereby amended by repealing
4 Section 1070.20-1:

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

6 ~~*Every permittee who conducts, permits or assists in conducting or permitting any extended-*~~
7 ~~*hours premises as defined, shall pay to the Tax Collector an annual license fee, payable in advance.*~~

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

12 Section 4312. The San Francisco Police Code is hereby amended by repealing
13 Section 1070.21:

14 ~~**SEC. 1070.21. STAY ORDERS.**~~

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

18 Section 4413. The San Francisco Police Code is hereby amended by amending
19 Section 1070.22, to read as follows:

20 **SEC. 1070.22. PERMITS NOT TRANSFERABLE; PERMIT MUST BE SURRENDERED**
21 **UPON SALE OF BUSINESS; PERMIT AMENDMENT REQUIRED TO CHANGE PARTNERS**
22 **OR OTHER OWNERS TRANSFER OF PERMIT.**

23 (a) No Person may transfer a permit issued under this Article to any other Person.

24 (b) If a Permittee Sells the Business, the Permittee shall promptly surrender the permit to
25 the Director. If the Permittee fails to surrender the permit to the Director, the Director may, after

1 giving the Permittee notice by mail and electronically of the proposed action and an opportunity to
2 respond, revoke the permit.

3 (c) Notwithstanding Subsections (a) and (b) of this Section, a Permittee may change
4 partners, shareholders, or other owners of a Business provided that (1) the sale or other transfer of
5 ownership results in a Person owning no more than 50% of the Business, regardless of the form of
6 ownership, and (2) the Permittee obtains an amendment to the Permit as provided in this Section. If
7 the transfer of ownership does not result in any Person (who did not already have such a percentage
8 interest) having an ownership interest of ten percent or more, the Permittee is not required to obtain a
9 permit amendment.

10 (d) A Permittee seeking to amend a permit as required under this Section shall pay the filing
11 fee for Permit Amendment/Additional Partner set forth in Section 2.26 of this Code. The applicant
12 shall provide that portion of the information sought under Section 1070.3 that the Director requires.

13 (e) The Director shall determine within 30 days of the filing of a complete application to
14 amend a permit whether to approve it. The Director shall approve the application unless he or she
15 determines that denial is warranted under any of the grounds set forth in Section 1070.5(f)
16 (incorporating the standards set forth in Section 1060.5(f)) and shall notify the Permittee and Manager
17 of the approval electronically and either by mail or personal delivery.

18 (f) If the Director determines that disapproval of the application may be warranted, the
19 Director shall schedule a hearing on the matter for the next regularly scheduled meeting of the
20 Entertainment Commission. The Director shall promptly provide written notice of the hearing to the
21 Permittee and the Manager by mail and electronically.

22 (g) The Entertainment Commission shall determine whether to approve the application
23 according to the standards governing the initial application for an Extended-Hours Premises Permit
24 (incorporating the standards set forth in Section 1060.5(f)).

1 *No permit shall be transferable except with the written consent of the Entertainment*
2 *Commission. An application for such a transfer shall be in writing and shall be accompanied by the*
3 *same filing fee as for an initial application. The written application for such transfer shall contain the*
4 *same information as requested herein for an initial application for such a permit.*

5 Section 4514. The San Francisco Police Code is hereby amended by amending
6 Section 1070.24, to read as follows:

7 **SEC. 1070.24. CRIMINAL AND ADMINISTRATIVE PENALTIES-PENALTY.**

8 *(a) CRIMINAL PENALTY. Any person who violates any provision Section 1070.1 of*
9 *this Article ~~(requiring a valid permit to operate a Business)~~ any provisions of this Article shall be*
10 *deemed guilty of an infraction. Any person who violates this Article more than once in a 12-*
11 *month period shall be guilty of an infraction or a misdemeanor, at the discretion of the*
12 *prosecutor. A first violation of this Article is an infraction is punishable by a fine of not more*
13 *than \$100. A second violation within one year of the date of the first violation is an infraction*
14 *punishable by a fine of not more than \$200 or a misdemeanor punishable a misdemeanor and*
15 *upon conviction such person shall be punished by a fine of not to exceed \$1,000 or by*
16 *imprisonment in the County Jail for a period not to exceed six months, or by both such fine*
17 *and imprisonment, at the discretion of the prosecutor. A third or subsequent violation within*
18 *one year of the date of the second or subsequent violation is an infraction punishable by a fine*
19 *of not more than \$500 or a misdemeanor punishable by a fine of not to exceed \$1,000 or by*
20 *imprisonment in the County Jail for a period not to exceed six months, or by both such fine*
21 *and imprisonment, at the discretion of the prosecutor. Each day a Person conducts, operates, or*
22 *maintains a Business without a valid permit shall constitute a separate violation.*

23 *(b) ADMINISTRATIVE PENALTY.*

24 *(1) The Director may issue administrative citations for the violation of any condition*
25 *imposed on a permit granted under this Article and any violation of Section 1070.28 or 1070.29*

1 (governing Security Plans). San Francisco Administrative Code Chapter 100, "Procedures Governing
2 the Imposition of Administrative Fines," is hereby incorporated in its entirety and shall govern the
3 amount of fees and the procedure for imposition, enforcement, collection, and administrative review of
4 administrative citations issued under this Subsection (b). The Director shall impose fines for violations
5 of any permit condition and any violation of Section 1070.28 or 1070.29 as set forth in Section
6 100.5(a) of the San Francisco Administrative Code.

7 (2) Notwithstanding Subsection (b)(1) of this Section, the procedure governing the appeal
8 of a citation set forth in San Francisco Administrative Code Chapter 100 is revised as provided in this
9 Subsection (b)(2). The Controller may designate the Director of the Department of Public Works as a
10 hearing officer under San Francisco Administrative Code Section 100.7, but shall designate such
11 officer for no more than one appeal a month and for no more than 12 times in a 12-month period.

12 Section 4615. The San Francisco Police Code is hereby amended by repealing
13 Section 1070.26:

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

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

19 ~~(a) Moratorium Area Described. The "Moratorium Area" includes the area bounded by Bush~~
20 ~~Street to the North, O'Farrell Street to the South, Taylor Street to the East, and Van Ness Avenue to the~~
21 ~~West, including the properties fronting on each side of O'Farrell, Bush, and Taylor Streets, but not~~
22 ~~including the properties fronting Van Ness Avenue.~~

23 ~~(b) Sunset Provision. The moratorium provided by this ordinance shall expire on December~~
24 ~~31, 2000 unless repealed or further extended by ordinance.~~

1 Section 4716. The San Francisco Police Code is hereby amended by adding Sections
2 1070.28, 1070.29, 1070.30, 1070.31, 1070.32, ~~and 1070.33,~~ and 1070.34, to read as follows:

3 **SEC. 1070.28. APPROVAL REQUIRED FOR SECURITY PLANS.**

4 (a) Every Extended-Hours Premises shall have a Security Plan, as defined in Section
5 1070(o), that has been approved by the Entertainment Commission or by the Director, as required by
6 this Article.

7 (b) As of the effective date of this Section, the Entertainment Commission shall not approve
8 any permit or other application relating to a Business unless the applicant has a Security Plan that has
9 been approved by the Commission or the Director as provided in this Article~~or has submitted a~~
10 ~~proposed Security Plan with the application.~~ The Security Plan shall meet the minimum
11 requirements of Section 1070(o) and any implementing rules and regulations. The Commission shall
12 disapprove any Security Plan that it determines does not adequately address the safety of persons and
13 property and provide for the orderly dispersal of persons and traffic, notwithstanding the compliance of
14 the proposed plan with the minimum requirements of Section 1070(o).

15 (c) Compliance with the Security Plan approved under this Article is a condition of the
16 permit.

17 (d) Every Extended-Hours Premises that does not have a Security Plan approved by the
18 Entertainment Commission on the effective date of this Section shall submit a proposed Security Plan to
19 the Director. The Entertainment Commission, the Director and every Permittee shall follow the
20 procedures and standards set forth in Section 1060.31 of this Code for the approval of Security Plans
21 under this Article. The Entertainment Commission may suspend a permit for the Permittee's failure to
22 comply with the requirements of Section 1060.31 as required by this Subsection (d), including the
23 failure to submit a proposed Security Plan and the failure to comply with an approved Security Plan.

24 (e) For the purpose of calculating compliance with the component of a Security Plan
25 that requires a ratio of one Security Guard to a specific number of individuals, a Security

1 Guard may be counted toward the ratio for only one Place of Entertainment at any one time.
2 This calculation rule applies whether the required ratio of Security Guard to individuals is
3 based solely on the definition of Security Plan in Section 1060(o), is otherwise required by this
4 Article, or is a condition of the Place of Entertainment permit.

5 **SEC. 1070.29. DIRECTOR MAY REQUIRE A PERMITTEE TO COMPLY WITH A**
6 **REVISED SECURITY PLAN.**

7 *Notwithstanding a Security Plan's compliance with the minimum requirements of Section*
8 *1070(o) and prior approvals under this Article, after consulting with the San Francisco Police*
9 *Department, the Director may issue an order directing a Permittee to comply with a revised Security*
10 *Plan by directing such revisions as the Director reasonably determines will address safety and traffic*
11 *concerns. The procedures and standards set forth in Section 1060.32 of this Code shall govern the*
12 *issuance of orders directing a Permittee to comply with a revised Security Plan under this Article. The*
13 *Entertainment Commission may suspend a permit for the Permittee's failure to comply with the*
14 *requirements of Section 1060.32 as required by this Section.*

15 **SEC. 1070.30. COMPLIANCE WITH CONDITIONS; AMENDMENT OF PERMIT TO**
16 **CHANGE CONDITIONS.**

17 *No Permittee shall operate a Business in any manner inconsistent with any condition imposed*
18 *on the permit. A Permittee may request an amendment to a permit to remove or change a condition by*
19 *filing a request with the Secretary of the Commission and paying the fee for an Amendment to a Permit*
20 *required under Police Code Section 2.26. The Entertainment Commission shall conduct a hearing and*
21 *determine whether to approve the application to amend the permit according to the procedures and*
22 *standards governing the initial application for Extended-Hours Premises Permits.*

23 **SEC. 1070.31. PERMITTEES REQUIRED TO REPORT CERTAIN INFORMATION.**

24 *(a) Every Permittee shall provide written notice to the Entertainment Commission within 30*
25 *days after any of the following occurs:*

1 (1) Criminal charges, complaints or indictments for the Permittee, the Manager, and each
2 Person with authority or control over the Business occurring after the filing of the permit application to
3 the extent that they fall within the categories specified in Sections 1060.3(j), (k) and (l) of this Code as
4 incorporated by Section 1070.3.

5 (b) Every Person holding a Extended-Hours Premises Permit, other than a publicly traded
6 corporation, shall maintain a record of the name and address of every Person that directly or indirectly
7 owns or controls 10% or more of the assets, ownership interests or voting interests in the Person
8 holding the Permit, which shall be known as a "record of principal owners," and shall make the
9 information available to the Entertainment Commission upon request. Every Person subject to this
10 Subsection (b) shall report any change to the record of principal owners within 30 days of the
11 transaction that effects the change. A "publicly traded" corporation is a company that has issued
12 securities through an initial public offering which are traded on at least one stock exchange or over-
13 the-counter market.

14 **SEC. 1070.32. APPEALS TO BOARD OF APPEALS.**

15 (a) The following actions taken under this Article may be appealed to the Board of Appeals:
16 The granting or denial of a permit, including a conditionally granted permit, or an amendment to a
17 permit; the suspension or revocation of a permit; and the denial by the Entertainment Commission of
18 an exception from the regulations under Section 1070.19. Any such appeal shall be filed within ten
19 days from the date of the decision, as provided in Section 8 of the San Francisco Business and Tax
20 Regulations Code.

21 (b) Notwithstanding the provisions of Subsection (a) of this Section, the Permittee or permit
22 applicant may seek immediate judicial review of the actions described in Subsection (a) of this Section
23 pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as these provisions
24 may be amended, including any successor provisions, or any other procedure provided by law. The
25

1 Permittee or permit applicant is not required to exhaust his or her administrative remedies before the
2 Entertainment Commission or before the Board of Appeals.

3 **SEC. 1070.33 AUTHORITY OF SAN FRANCISCO POLICE DEPARTMENT.**

4 Nothing in this Article is intended to restrict or alter in any way the authority vested in the San
5 Francisco Police Department under Federal, State or local law to take action in response to conduct
6 that arises in connection with the operation of a Business.

7 **SEC. 1070.34. PROMOTION OF GENERAL WELFARE.**

8 ~~Section 18.~~ In undertaking the enforcement of this Article ordinance, the City is
9 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it
10 imposing on its officers and employees, an obligation for breach of which it is liable in money
11 damages to any person who claims that such breach proximately caused injury.

12 Section ~~49~~17. SEVERABILITY. If any section, subsection, subdivision, paragraph,
13 sentence, clause or phrase of this Ordinance or of Article 15.2 of the Police Code, or any part
14 thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of
15 competent jurisdiction, such decision shall not affect the validity or effectiveness of the
16 remaining portions of this Ordinance or of Article 15.2, Code or any part thereof. The Board of
17 Supervisors hereby declares that it would have passed each section, subsection, subdivision,
18 paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more
19 sections, subsections, subdivision paragraphs, sentences, clauses or phrases be declared
20 unconstitutional or invalid or ineffective.

21 Section ~~20~~18. The Board of Supervisors has adopted findings and a statement of
22 purpose regarding this Ordinance that are set forth in Ordinance No. _____.

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

By: _____
PAUL ZAREFSKY
Deputy City Attorney