

1 [Ordinance placing Grants for the Arts in charge of administration of Nonprofit Performing Arts  
2 Loan Program.]

3 **Ordinance amending Sections 50.2, 50.10, 50.11 and 50.21 of the San Francisco**  
4 **Administrative Code concerning the Nonprofit Performing Arts Loan Program to**  
5 **transfer administration of the program from the Mayor's Office of Housing to the**  
6 **Grants for the Arts and allowing Grants for the Arts to establish criteria for loan**  
7 **forgiveness and issue other related regulations and agreements and amending Section**  
8 **10.100-119 of the San Francisco Administrative Code to clarify that the Fund shall be**  
9 **used for construction project management, capital improvement and acquisition loans**  
10 **to nonprofit performing arts organizations under Chapter 50 of the Administrative**  
11 **Code.**

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

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

17 Section 1. Findings.

18 The Board of Supervisors finds as follows:

19 1. The Nonprofit Performing Arts Loan Program (NPALP) was established by the  
20 Board of Supervisors in 1984. Since that time many economic and political changes have  
21 occurred in the external environment affecting the arts.

22 2. Almost \$2.3 million has been loaned over the 20-year life of the NPALP,  
23 enabling capital acquisition or improvements to 17 small to midsize theaters or performance  
24 spaces.

1           3.     The NPALP borrowers have universally considered the NPALP loans a success  
2     in that the loans have enabled the borrowers to present more productions, serve more  
3     audience members, and employ more San Francisco performing artists in code-compliant  
4     facilities. However, 80 percent of these loans are in arrears, suggesting that the City should  
5     reassess the program.

6           4.     In August 2003, the consulting firm MacDougall & Co. prepared a program  
7     assessment of NPALP and recommended that the City renegotiate the loan agreements in  
8     order to assure that the loans were not a hardship to the borrowers, while still requiring the  
9     borrowers to be accountable for their use of scarce City dollars.

10          5.     The Mayor's Office of Housing does not currently have the optimal level of  
11     expertise regarding performing arts spaces or arts organizations to continue to operate this  
12     program.

13          6.     Grants for the Arts, which has annual funding agreements with all but one of the  
14     current borrowers is the City agency best equipped to continue this program and has the  
15     expertise to do so based on the following:

16           (a) Grants for the Arts has, over the past decade, initiated capital programs  
17     enabling arts organizations to acquire or renovate space totaling \$1.5 million;

18           (b) Grants for the Arts advises two nonprofit loan/grant programs on capital needs  
19     of arts organizations: the Northern California Community Loan Fund, and the Nonprofit  
20     Finance Fund; and

21           (c) Grants for the Arts has supplemented the NPALP program over the years, more  
22     than doubling the initial City subsidy of \$500,000;

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1           7.     In light of the above, the Board of Supervisors hereby finds that the following  
2 legislative changes are necessary to modify the administration of the NPALP in order to make  
3 the program more effective.

4           Section 2. The San Francisco Administrative Code is hereby amended by amending  
5 Sections 50.2, 50.10, 50.11 and 50.21 to read as follows:

6           SEC. 50.2. DEFINITIONS.

7           Unless otherwise indicated by the context, the following definitions shall govern the  
8 construction of this Chapter:

9           (a) "Arts organization" shall mean a nonprofit performing arts organization which is  
10 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as  
11 amended, and which is otherwise eligible for loans under this Chapter.

12           (b) "Director" shall mean the Director of the ~~Mayor's Office of Housing, or his or her~~  
13 designee Grants for the Arts Program.

14           (c) "Fund" shall mean the Nonprofit Performing Arts Loan Fund, established  
15 pursuant to Administrative Code Section 10.117-41.

16           (d) "Incipient code violation" shall mean a physical condition of property which may  
17 reasonably be expected to deteriorate into a code violation within two years.

18           SEC. 50.10. DUTIES OF CITY AND COUNTY AGENCIES.

19           The Director shall be responsible for administration of all aspects of the Nonprofit  
20 Performing Arts Loan Program. The Director and each City and County agency assigned  
21 responsibilities under this Chapter shall have all such authority as may be reasonably  
22 necessary to carry out those responsibilities, including the authority to enter into or amend any  
23 agreements that the Director deems necessary to help administer the Nonprofit Performing Arts Loan  
24 Program, including but not limited to, agreements with loan servicing agencies. While retaining the  
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1 overall responsibility for the administration of the program, the Director may utilize the  
2 services of the Department of Public Works and the Fire Department in connection with the  
3 code enforcement aspects of the program, and the services of the Mayor's Office, Department  
4 of Administrative Services, Department of Building Inspection and Real Estate Department in  
5 connection with the loan financing aspects of the program. The Director may also request the  
6 assistance of any other City and County agency in meeting his or her responsibilities  
7 under this program. With respect to funds previously sent through interdepartmental  
8 work order from Grants for the Arts to the Non Profit Performing Arts Law Program to supplement the  
9 original \$500,000 in the Fund, the Director shall have the discretion to convert such funds for use in  
10 making capital grants.

11 SEC. 50.11. RULES AND REGULATIONS.

12 The Director shall promulgate such rules and regulations as he or she may  
13 deem appropriate to carry out the provisions of this Chapter, including rules and regulations for  
14 general payment schedule adjustments, individualized payment schedule adjustments and criteria for  
15 loan forgiveness where the Director, in consultation with the Controller's Office, deems such  
16 provisions are necessary in order to recoup outstanding loans or to ensure the ongoing effectiveness of  
17 the program by assisting the economic viability of the borrowers and helping to alleviate debt-related  
18 or other financial hardships. Said rules and regulations shall be developed in consultation with  
19 pertinent City and County agencies and any other appropriate organizations which the  
20 Director in his or her discretion may choose to consult. The Board of Supervisors shall by  
21 resolution approve all such rules and regulations prior to their effective date. A copy of all  
22 such rules and regulations shall be available for review by the public during regular business  
23 hours in the office of the Director, the office of the Clerk of the Board of Supervisors, the Fire  
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1 Prevention Bureau of the Fire Department, the Department of Public Works and in every other  
2 office which is assigned responsibilities for carrying out this program.

3 SEC. 50.21. ELIGIBILITY FOR LOANS.

4 Each arts organization working in a facility in San Francisco which has been or is  
5 subject to being cited for code violations or incipient code violations or that intends to acquire  
6 or renovate a facility in San Francisco shall be eligible for a loan under this Chapter. Loans  
7 under this Chapter shall be available only to arts organizations with annual budgets of less  
8 than ~~\$1,000,000~~ \$2,500,000, and only for the repair and maintenance or acquisition of facilities  
9 containing 50 to ~~499~~600 seats. Each arts organization shall apply for a loan in compliance  
10 with all applicable rules and regulations as promulgated by the Director; shall demonstrate to  
11 the satisfaction of the Director the ability to repay such a loan, and shall meet all applicable  
12 requirements as set forth in this Chapter.

13 Priority for loans shall be given to arts organizations seeking funds to correct life safety  
14 code violations in the facility where they are presently working or acquisitions necessitated by  
15 life safety code defects *and to arts organizations that have demonstrated compliance with repayment*  
16 *obligations on prior loans from the City or other lending institutions.* It is the intent of the Board of  
17 Supervisors that the maximum degree of cultural and ethnic diversity be achieved among loan  
18 recipients, to insure that minority, disabled, lesbian/gay and other arts organizations may  
19 share in the benefits of this program. In administering this loan program, the Director shall  
20 give priority to this intent and shall insure that sufficient funds are available to achieve this  
21 purpose.

22 Section 3. The San Francisco Administrative Code is hereby amended by amending  
23 Section 10.100-119 to read as follows:

24 SEC. 10.100-119. MAYOR'S PERFORMING ARTS LOAN FUND.

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(a) Establishment of Fund. The Mayor's Performing Arts Loan Fund is established as a category four fund to receive any grants, gifts and bequests from public or private sources for this purposes, any monies appropriated to the County for the fund by the Legislature and any monies appropriated to the fund by the Board of Supervisors, including all principal repayments, fees, charges and other interest collected from participating parties.

(b) Use of Fund. The fund shall be used exclusively for the purpose of making *facilities construction project* management, capital improvement and acquisition loans to nonprofit performing arts organizations pursuant to Chapter 50 of the San Francisco Administrative Code. The monies in this fund may be appropriated exclusively for the purposes and in the manner designated pursuant to Chapter 50 of the San Francisco Administrative Code. Costs which may be incurred in administering said Chapter may be recovered from interest payments deposited in this fund. Recovered costs shall not exceed 1/3 of the total interest payments received.

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

By: ADINE K. VARAH  
Deputy City Attorney