

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.**

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

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

18 Section 1. Findings.

19 The Board of Supervisors finds as follows:

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

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

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

6 (b) Use of Fund. The fund shall be used exclusively for the purpose of making
7 ~~facilities~~ construction project management, capital improvement and acquisition loans to
8 nonprofit performing arts organizations pursuant to Chapter 50 of the San Francisco
9 Administrative Code. The monies in this fund may be appropriated exclusively for the
10 purposes and in the manner designated pursuant to Chapter 50 of the San Francisco
11 Administrative Code. Costs which may be incurred in administering said Chapter may be
12 recovered from interest payments deposited in this fund. Recovered costs shall not exceed
13 1/3 of the total interest payments received.

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

17 By: _____
18 ADINE K. VARAH
19 Deputy City Attorney

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