

1 [Regulating Fortunetellers.]  
2

3 **Ordinance repealing Section 162 of the San Francisco Police Code relating to**  
4 **advertising by fortunetellers; adding Sections 1300 to 1321 to the San Francisco Police**  
5 **Code requiring fortunetellers to obtain a permit, setting forth permit procedures,**  
6 **regulating business by prohibiting deceptive acts and requiring receipts, rate**  
7 **schedules, and identification cards, requiring permit number on advertisements,**  
8 **allowing license inspections, and setting forth the penalty for violations of these**  
9 **sections; and amending San Francisco Police Code Section 2.26 setting forth permit**  
10 **and filing fees.**

11 Note: Additions are single-underline italics Times New Roman;  
12 deletions are ~~strikethrough italics Times New Roman~~.  
13 Board amendment additions are double underlined.  
14 Board amendment deletions are ~~strikethrough 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 repealing Section  
16 162, to read as follows:

17 ~~SEC. 162. FORTUNE TELLING, ETC., ADVERTISING AND CARRYING ON~~  
18 ~~BUSINESS OF, PROHIBITED.~~

19 ~~It shall be unlawful for any person or persons to advertise (by sign, circular, handbill or~~  
20 ~~in any newspaper, periodical or magazine, or other publication or publications, or by any other~~  
21 ~~means) to tell fortunes, to practice phrenology, to find or restore lost or stolen property, to~~  
22 ~~locate oil wells, gold or silver or other ore or metal or natural product, to restore lost love or~~  
23 ~~friendship or affection, to unite or procure lovers, husbands, wives, lost relatives or friends, for~~  
24 ~~or without pay; by means of occult or psychic powers, faculties or forces, clairvoyance,~~  
25 ~~psychology, psychometry, spirits mediumship, seership, prophecy, astrology, palmistry,~~

1 ~~necromancy, or other crafty science, cards, talismans, charms, potions, magnetism or~~  
2 ~~magnetized articles or substances, Oriental mysteries or magic of any kind or nature; or to~~  
3 ~~engage in or carry on any business the advertisement of which is prohibited by this Section;~~  
4 ~~provided that nothing in this Section shall apply to any ordained or duly accredited minister of~~  
5 ~~any form of religious belief, or to the faith, practice or teaching of any religious body; provided~~  
6 ~~that fees, gratuities, emoluments or profits therefor shall be paid solely to or for the benefit of~~  
7 ~~said religious body.~~

8 Section 2. The San Francisco Police Code is hereby amended by adding Section  
9 1300 to 1321, as follows:

10 **Sec. 1300. Purpose.** The purpose of this legislation is to regulate fortunetellers,  
11 psychics, and other similar businesses so that the City and County of San Francisco can  
12 efficiently and thoroughly investigate fraud and deception; protect the public by preventing  
13 people with a history of deceptive practices from having easy access to persons who may be  
14 vulnerable to fraud or confidence games; and to ensure that consumers are provided with  
15 information regarding services, rates, and complaint procedures.

16 **Sec. 1301. Permit Required for Fortunetelling.** It shall be unlawful for any person to  
17 engage in the activity, enterprise, profession, trade, or undertaking of fortunetelling with the  
18 object of gain, benefit or advantage, whether direct or indirect, without a valid permit issued by  
19 the San Francisco Police Department. Gain, benefit or advantage includes but is not limited  
20 to economic remuneration of any kind, including authorization to use credit issued to another,  
21 use of another's property or assets, loans, or the provision of tangible items.

22 **Sec. 1302. Definitions.**

23 (a) Fortunetelling shall mean the telling of fortunes, forecasting of futures, reading  
24 the past, or furnishing of any information not otherwise obtainable by the ordinary process of  
25 knowledge, by means of any occult, psychic power, faculty, force, clairvoyance, cartomancy,

1 psychometry, phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand,  
2 coffee grounds, crystal gazing or other such reading, or through mediumship, seership,  
3 prophecy, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art,  
4 science, talisman, charm, potion, magnetism, magnetized article or substance, or by any such  
5 similar thing or act. It shall also include effecting spells, charms, or incantations, or placing  
6 curses or advising the taking or administering of what are commonly called love powders or  
7 potions in order, for example, to get or recover property, stop bad luck, give good luck, put  
8 bad luck on a person or animal, stop or injure the business or health of a person or shorten a  
9 person's life, obtain success in business, enterprise, speculation and games of chance, win  
10 the affection of a person, make one person marry or divorce another, induce a person to  
11 make or alter a will, tell where money or other property is hidden, make a person to dispose of  
12 property in favor of another, or other such similar activity.

13 (b) Fortunetelling shall also include pretending to perform these actions.

14 (c) Person as used in Sections 1300 to 1321 shall mean an individual.

15 Corporations and other legal entities shall not be entitled to a fortuneteller permit.

16 **Sec. 1303. Exception.** Sections 1300 through 1321 shall not apply:

17 (a) To persons solely by reason that the person is engaged in the business of  
18 entertaining the public by demonstrations of mindreading, mental telepathy, thought  
19 conveyance, magic, giving of horoscopic readings or other fortunetelling at public places and  
20 in the presence of and within the hearing of other persons, and where any questions  
21 answered as part of such entertainment may be heard by all persons present at such public  
22 place.

23 (b) To persons conducting or participating in any religious ceremony as a minister,  
24 missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as minister,  
25 from any bona fide church or religious association maintaining a church and holding regular

1 services and having a creed or set of religious principles that is recognized by all churches of  
2 like faith, provided that:

3 (1) The benefit, gain or advantage shall be regularly accounted for and paid solely  
4 to or for the benefit of the bona fide church or religious association except that the bona fide  
5 church or religious association may pay to its ministers a salary or compensation based upon  
6 a percentage only, pursuant to an agreement between the church and the ministers that is  
7 embodied in a resolution and transcribed in the minutes of such church or religious  
8 association.

9 (2) The minister holds a certificate of ordination from such bona fide church or  
10 religious association.

11 **Sec. 1304. Application for Permit for Fortunetelling.** Application shall be on a form  
12 provided by the SFPD and shall include:

13 (a) The full true name under which the business will be conducted.

14 (b) The applicant's full true name, and other names used, date of birth, California Driver's  
15 License or other government-issued identification, social security number, present  
16 residence address and telephone numbers.

17 (c) A copy of any fictitious business name statement under which the applicant is or  
18 intends to operate.

19 (d) The name or names under which the permittee will be identifying himself or herself to  
20 the public.

21 (e) The present or proposed address where the business will be conducted. If the  
22 business is to be conducted in a street location or other location that is not fixed, the  
23 applicant shall so indicate, and provide the applicant's home address.

24 (f) The applicant's gender, height, weight, color of hair, and color of eyes.

25

- 1 (g) All addresses at which the applicant has resided within five years prior to the  
2 application.
- 3 (h) The applicant's business, occupation, and employment history for the five years  
4 preceding the date of the application.
- 5 (i) The permit history of the applicant, including whether such person has ever had a  
6 permit or license issued for any fortunetelling or related business, by any agency, board,  
7 city, city and county, county, territory or state, the issuing agency, the date of issuance,  
8 and whether the permit was suspended or revoked and the reasons therefore.
- 9 (j) The address, City and State, and the approximate dates where and when the  
10 applicant practiced a similar business, either alone or in conjunction with others.
- 11 (k) All convictions of any crime other than traffic offenses, whether in California or  
12 elsewhere, relating to fraud, theft, burglary, sex offenses, use of violence, deceit, false  
13 impersonation, permit violations or any other crime involving moral turpitude.
- 14 (l) Any other information requested by the Chief of Police necessary to ascertain the  
15 truth of the matters specified and required on the application.
- 16 (m) A full set of fingerprints to be taken by the SFPD.
- 17 (n) Two recent passport sized photographs that accurately reflect the applicant's  
18 likeness.
- 19 (o) The required application fee as set forth in the Administrative Code.

20 **Sec. 1305. Permit Grant or Denial.**

21 The Chief of Police shall grant the permit unless the Chief finds:

- 22 (a) The location fails to meet the zoning, health and safety, fire, or other code  
23 requirements for the business.
- 24
- 25

1 (b) The applicant has been convicted of a crime relating to fraud, theft, burglary, sex  
2 offenses, use of violence, deceit, false impersonation, permit violations or any other crime  
3 involving moral turpitude.

4 (c) The applicant has previously had a permit revoked or suspended for violation of  
5 permitting conditions.

6 (d) The applicant has failed to provide required information or has provided false or  
7 misleading information to the Police Department or other City agency.

8 (e) The applicant has failed to pay the required fees.

9 **Sec. 1306. Suspension, Revocation, or Reinstatement of Fortunetelling Permit.**

10 When the Chief of Police determines that the permittee is violating or attempting to  
11 violate any law of the State of California or any ordinance of the City and County of San  
12 Francisco or the applicable rules and regulations of the Police Department, or has made  
13 material misrepresentations on the permit application or other required reports, the Chief of  
14 Police, after written notice to the permittee, shall have the power to suspend and, after due  
15 and proper hearing, shall have the power to revoke, any permit issued under the provisions of  
16 Sections 1300 - 1321 inclusive. When suspended or revoked, the permittee shall immediately  
17 surrender the permit to the Police Department's Permit Bureau.

18 The Chief of Police shall cause to be forwarded to the Tax Collector written notice of  
19 any revocation, suspension or reinstatement of any permit herein provided for.

20 The permittee shall be prohibited from applying for a fortunetelling permit for one year  
21 following denial or revocation of a fortunetelling permit.

22 **Sec. 1307. Permit Forwarded to Tax Collector; Payment of License Fees.**

23 When the Chief of Police issues a permit under the provisions of this Article, the Chief  
24 of Police shall cause such permit to be forwarded to the office of the Tax Collector for delivery  
25 to the permittee upon the payment of the license fees.

1           **Sec. 1308. Renewal of Permit.**

2           A permit for fortunetelling shall be renewed as set forth in Sections 2.8 and 2.10 of this  
3 Code.

4           **Sec. 1309. License Fees.** Every holder of a fortuneteller's permit shall pay at the  
5 office of the Tax Collector an annual license fee, payable in advance. The permit is not valid  
6 unless the license fee has been paid.

7           **Sec. 1310. Removal or Transfer of Permit or License Prohibited.**

8           Nothing in Sections 1300 – 1321, inclusive, shall permit the removing or transferring of  
9 the permit or license to any other location or person other than those for which or for whom  
10 the permit or license was originally issued.

11           **Sec. 1311. Deceptive Acts.** Fortunetellers shall not engage in unfair or deceptive  
12 practices during the conduct of any fortunetelling activities.

13           **Sec. 1312. Receipts.**

14           (a) The fortuneteller shall issue a written receipt that shall include the name of the  
15 permittee who provided the services, the permittee's permit number, the services rendered, the  
16 amount charged for each service provided, and the amount paid or expected. If payment is  
17 made in a method other than cash, check, or credit card, the receipt shall so indicate.

18           (b) The permittee must keep copies of receipts for five years from date of issuance.

19           **Sec. 1313. Identification Cards.** The Chief of Police shall provide each fortuneteller  
20 granted a permit with an identification nameplate that shall contain a photograph, right  
21 thumbprint, name, and permit number of the permittee. The permittee must post the  
22 identification nameplate in a location clearly visible from the place where the fortuneteller tells  
23 fortunes or otherwise engages in the activity regulated by this article. The Department shall  
24 charge a fee for each identification nameplate issued as set annually by the San Francisco  
25 Police Commission.

1           **Sec. 1314. Rate Schedule and Complaint Procedure.**

2           (a)     When a fortuneteller operates at a roving or unfixed location, the fortuneteller  
3 shall provide a written copy of rate information to the customer that shall be printed in plain,  
4 legible letters. The rate document shall include a statement that if the customer has  
5 complaints, the customer may phone the San Francisco Police Department Permit Bureau at  
6 553-1115.

7           (b)     When a fortuneteller operates out of a fixed location, the fortuneteller shall post  
8 rate information in a conspicuous place accessible by the patrons at the fixed location on a  
9 sign at least 8 x 10 inches in 14 pt. type. The signage shall also include a statement that if the  
10 customer has complaints, the customer may phone the San Francisco Police Department  
11 Permit Bureau at 553-1115.

12          (c)     If the fortuneteller operates by donation or an indirect method of payment,  
13 including remuneration that is at the discretion of the customer, the schedule of rates shall so  
14 indicate.

15          (d)     The rates published shall be the only rates charged.

16           **Sec. 1315. Advertising.** All persons who advertise fortunetelling shall include in the  
17 advertising the number of the permit issued by the San Francisco Police Department.

18           **Sec. 1316. Updated Information.** When any of the information required by this  
19 Article or provided by the applicant changes, the permit holder shall within 15 days of the  
20 change provide to the Police Department's Permit Bureau in writing the updated information.

21           **Sec. 1317. Effective Date.** If operating as a fortuneteller within the City and County of  
22 San Francisco when ordinance enacted, shall have three months from the effective date of  
23 the Article to obtain a permit.

1           **Sec. 1318. Rules and Regulations to be Adopted.** The Chief of Police may, after a  
2 public hearing, make and enforce reasonable rules and regulations not in conflict with, but to  
3 carry out, the intent of Sections 1300 to 1321.

4           **Sec. 1319. Ascertainment of Compliance With All Law; Inspections Therefore**

5           It shall be the duty of the Chief of Police to ascertain that all laws of the State of  
6 California, the provisions of Sections 1300 to 1321, inclusive, all ordinances of the City and  
7 County of San Francisco, and the rules and regulations of the Police Department are strictly  
8 complied with, and for that purpose the representatives of the Police Department shall have  
9 access to any fortunetelling business at all hours the business is in operation, and may  
10 request that a permittee provide copies of documents required to be kept. The Police  
11 Department shall inspect as often as it deems necessary.

12           **Sec. 1320. Penalty.** Any person violating any provision of this section shall be guilty  
13 of a misdemeanor or an infraction. The complaint charging such violation shall specify  
14 whether the violation is a misdemeanor or infraction, which decision shall be that of the  
15 District Attorney.

16           If charged as an infraction, upon conviction, the violator shall be punished by a fine of  
17 not less than \$100 or more than \$500, and/or community service, for each provision violated.

18           If charged as a misdemeanor, upon conviction, the violator shall be punished by a fine  
19 of not less than \$200 or more than \$800, and/or community service, for each provision  
20 violated, or by imprisonment in the County Jail for a period of not more than six months, or by  
21 both such fine and imprisonment.

22           In any accusatory pleading charging a violation of this section, if the defendant has  
23 been previously convicted of a violation of this section, each such previous violation and  
24 conviction shall be charged in the accusatory pleading. Any person violating any provision of  
25 this section a second time within a thirty day period shall be guilty of a misdemeanor and shall

1 be punished by a fine of not less than \$300 and not more than \$900, and/or community  
2 service, for each provision violated, or by imprisonment in the County Jail for a period of not  
3 more than six months, or by both such fine and imprisonment. Any person violating any  
4 provision of this section a third time, and each subsequent time, within a thirty day period shall  
5 be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not  
6 more than \$1,000, and/or community service, for each provision violated, or by imprisonment  
7 in the County Jail for a period of not more than six months, or by both such fine and  
8 imprisonment.

9 **Sec. 1321. Severability Clause.** If any provision or clause of this ordinance or the  
10 application thereof to any person or circumstance is held to be unconstitutional or to be  
11 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other  
12 article provisions or clauses or applications, and to this end the provisions and clauses of this  
13 ordinance are declared to be severable.

14 Section 3. The San Francisco Police Code Section 2.26 is hereby amended to add a  
15 fee for fortunetellers as follows:

16 **Sec. 2.26 Schedule of Permits and Filing Fees.**

17 The following filing fees, payable in advance to the Police Department, are required  
18 when submitting applications for permits to the Police Department:

19 TYPE OF PERMIT FILING FEE

20 Permit Amendment/Additional Partner \$ 61

21 Amusement Park 707

22 Antique Shop 451

23 Auto Wrecker 547

24 Ball or Ring Throwing Games 390

25 Balloon and Kite Advertising 295

1	Billiard Parlor 357
2	Bingo Games 50
3	Amendment to Permit 50
4	Cabaret 908
5	Amendment to Permit 500
6	Circus 538
7	Closing-Out Sale 313
8	Dance Hall Keeper 1,108
9	Amendment to Permit 500
10	One Night Dance 30
11	Dealer in Firearms and/or Ammunition 706
12	Renewal 182
13	Discharge of Cannon 251
14	Distributor of Advertising
15	Class A 397
16	Class B 348
17	Driverless Auto Rental 478
18	Encounter Studio
19	Owner 537
20	Employee 153
21	Escort Service
22	<u>Fortuneteller 295</u>
23	Funeral Procession Escort 170
24	Insignia and Uniform 10
25	General Soliciting Agent 191
26	Itinerant Show 562

- 1 Itinerant Show/Nonprofit 100
- 2 Junk Dealer 763
- 3 Junk Gatherer
- 4       Resident 348
- 5       Nonresident 280
- 6 Licensed Tour Guide 206
- 7 Loudspeaker
- 8       Commercial 315
- 9       Noncommercial 37
- 10 Vehicle 315
- 11 Masked Ball 637
- 12 Massage Establishment 1,323
- 13 Masseur/Masseuse 153
- 14 Trainee 153
- 15 Mechanical Amusement Devices 430
- 16 Mechanical Contrivance 430
- 17 Miniature Golf Course 456
- 18 Mobile Caterer 622
- 19 Additional Stop 58
- 20 Assistant 58
- 21 Transfer of Stop 48
- 22 Museum 489
- 23 Nude Models in Public Photographic Studio
- 24       Owner 562
- 25       Employee 153

- 1 Off-Heliport Landing Site 384
- 2 Outcall Massage 362
- 3 Pawnbroker 607
- 4 Peddler
- 5       Fish, Vegetables, Fruit 428
- 6       Food for Human Consumption 428
- 7       Nonfood 262
- 8       Employee 58
- 9 Pedicab Driver 58
- 10 Pedicab Owner
- 11 First Pedicab 282
- 12       Each Additional Pedicab 64
- 13 Photographer, Public Place
- 14       Owner 337
- 15       Solicitor 58
- 16 Photographic Solicitor
- 17       Owner 337
- 18       Employee 58
- 19 Place of Entertainment 1,108
- 20 Amendment to Permit 500
- 21 Poker 724
- 22 Amendment to Permit 63
- 23 Public Bathhouse 897
- 24 Public Outcry Sales 423
- 25 Pushcart Peddler 497

- 1 Recreational Equipment Vendor 321
- 2 Rodeo Exhibition/Wild West Show 551
- 3 Second Hand Dealer 451
- 4 Second Hand Dealer, Auto Accessories 451
- 5 Shooting Gallery 576
- 6 Skating Rink 572
- 7 Street Photographer

8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By: \_\_\_\_\_  
12 Margaret W. Baumgartner  
13 Deputy City Attorney

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25