

[Police Code, Business and Tax Regulations Code - Regulating Mechanical Amusement Devices and Arcades]

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Ordinance amending the Police Code to reduce restrictions on the location of, and lessen permitting requirements for, mechanical amusement devices and arcades, and remove obsolete Code provisions; amending the Business and Tax Regulations Code to clarify the appeal period for appealing mechanical amusement device permits and other Entertainment Commission permits to the Board of Appeals; and making environmental findings.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font. **Additions to Codes** are in *single-underline italics Times New Roman font*. **Deletions to Codes** are in *strikethrough italics Times New Roman font*. **Board amendment additions** are in double-underlined Arial font. **Board amendment deletions** are in ~~Arial font~~. **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 140776 and is incorporated herein by reference.

(b) It is hereby declared to be City policy to regulate reasonable and orderly public access for patrons wishing to play mechanical amusement devices, including video game machines, while at the same time protecting the health, safety and welfare of the general public.

1 Section 2. Article 15 of the Police Code is hereby amended by revising existing
2 Sections 1036 through 1036.34 (including deleting existing Sections 1036.6, 1036.7, 1036.11,
3 1036.23, 1036.26, 1036.29, 1036.30, 1036.31-1, 1036.33, 1036.34, and 1036.35, and re-
4 numbering the remaining sections as Sections 1036 through 1036.25), to read as follows:

5 **SEC. 1036. DEFINITIONS.**

6 As used in Sections 1036 through 1036.24, inclusive~~this Article~~, the following words shall
7 have the following respective meanings:

8 "Accessory Ancillary Use" shall mean the operation of ~~one~~1 to 10 mechanical
9 amusement devices on premises wherein another business operates.

10 "Arcade" shall mean any premises where 11 or more mechanical amusement devices
11 are operated.

12 "Bar" shall mean a retail use which provides on-site alcoholic beverage sales for drinking on
13 the premises where no person under 21 years of age is admitted and which has a California
14 Department of Alcoholic Beverage Control license type 42, 48, or 61.

15 "City" shall mean the City and County of San Francisco.

16 "Director" shall mean the Executive Director of the Entertainment Commission or individual(s)
17 designated by the Director to act on his or her behalf.

18 "Mechanical amusement device" shall mean any machine or device, with or without a
19 video screen or display, which, upon the insertion of a coin, slug, ~~or~~ token, or printed currency in
20 any slot or receptacle attached to said machine or connected therewith, or via any other
21 means of payment, operates or which may be operated for use as a game, contest or
22 amusement or which may be used for any such game, contest or amusement and which does
23 not contain a pay-off device for the return of slugs, money, coins, checks, tokens or
24 merchandise. A mechanical amusement device shall not include any game or device that is unlawful
25 under the Municipal Code or under Chapter 10 of Title 9 of the California Penal Code.

1 "Owner or operator of a mechanical amusement device" shall mean:

2 (a) Any owner of such mechanical amusement device who operates or permits
3 the same to be played or operated in his place of business or in any commercial place under
4 his control or who installs or maintains the same in any commercial place where the same can
5 be played or operated by persons in or about said place;

6 (b) The persons in whose place of business any such mechanical amusement
7 device is placed for the use, amusement, patronage or recreation of the public or of persons
8 in or about said place.

9 "Permittee." The Person to whom a permit has been issued under Sections 1036 through
10 1036.24, inclusive.

11 "Person" shall mean any individual, corporation, association, syndicate, joint stock
12 company, partnership, club, ~~Massachusetts business or common law trust~~, society, or any other
13 entity, or individual.

14 "Public retail floor space" shall mean that portion of the premises to which the public is
15 allowed access.

16 "Street" shall mean any street, alley, way, boulevard, or road, either public or private,
17 that is used or to be used for ingress or egress.

18 ~~—"Video game machine" shall mean any mechanical amusement device, as defined in this~~
19 ~~Section, which is characterized by the use of cathode ray tube display.~~

20 **SEC. 1036.1. REQUIREMENTS FOR MACHINES.**

21 (a) Every mechanical amusement device shall have a seal or tag permanently
22 attached thereto showing ~~the serial number of the mechanical amusement device, a label or decal~~
23 ~~stating~~ the name, address and telephone number of the owner of the mechanical amusement
24 device, and, in addition thereto, if wired for electricity, ~~a label indicating the name and address of~~
25

1 ~~the manufacturer and~~ the voltage and current necessary for the proper operation of said
2 mechanical amusement device.

3 ~~Each portable mechanical amusement device wired for electricity shall be equipped with not~~
4 ~~more than six feet of electric cord of a type approved by the Department of Electricity, and shall be~~
5 ~~connected to a convenience plug receptacle adjacent to said mechanical amusement device.~~

6 (b) Where it is necessary to install electric wiring to said mechanical amusement
7 device location, said wiring shall be installed by a registered electrical contractor in
8 accordance with the provisions of the San Francisco Electrical Code Article 1, Chapter III, Part II,
9 ~~of the San Francisco Municipal Code.~~

10 **SEC. 1036.2. ~~UNLAWFUL ACTS~~ — PERMIT REQUIREMENTS AND EXCEPTIONS.**

11 (a) Nothing in Sections 1036 to 1036.~~3424~~, inclusive, shall be construed to authorize
12 or permit either the use or operation of any gambling device whatsoever, including games of
13 chance prohibited under Article 3, or of any mechanism that has been judicially determined to be
14 a gambling device in any way contrary to law, or to authorize or permit any other conduct
15 otherwise unlawful. Nothing in this Section 1036.2 shall preclude an award of a free game or
16 games upon a mechanical amusement device.

17 (b) Permit Required.

18 (1) It shall be unlawful for any person to install, operate or maintain to be
19 operated ~~any mechanical amusement device~~ in the City:

20 (A) ~~an Arcade and County of San Francisco~~ the following without first having
21 obtained a permit in writing to do so from the Entertainment Commission (“Arcade Permit”); or

22 ——— (A) ~~an Arcade; or~~

23 (B) 2 five two to 10 ten mechanical amusement devices as an Ancillary Use in a
24 Bar without first having obtained a permit in writing to do so from the Director or his or her
25 designee (“Ancillary Bar Use Permit”).

1 Accordingly, an Ancillary Use consisting of either ~~one up to four~~ one mechanical
2 amusement device in a Bar or up to ~~40~~ ten mechanical amusement devices operated on a premises that
3 is not a Bar does not require a permit.

4 (2) It shall be unlawful for any person to install, operate or maintain to be operated an
5 Arcade or Ancillary Use for which a permit has been granted (A) after the permit has been revoked or
6 is otherwise invalid or (B) for any period of time during which the permit has been suspended.

7 (3) Any premises where a mechanical amusement device permit is sought must conform
8 to all City ordinances, including but not limited to health, safety, zoning, fire and building ordinances.

9 (c) The provisions of Sections 1036 to 1036.~~24~~³⁴, inclusive, shall not be construed to
10 apply to mechanical amusement devices installed, operated or maintained in private
11 residences or businesses intended for free use solely by the residents or employees at those
12 locations.

13 (d) The provisions of Sections 1036 to 1036.24, inclusive, shall not apply to (1) any machine or
14 mechanical amusement device which, in return for the coin deposited in said mechanical amusement
15 device, will deliver the equivalent value of said coin in merchandise; provided, that no prize, reward,
16 bonus or other thing of value is delivered with said merchandise, or (2) coin-operated billiard, pool or
17 combination tables, which are subject to the licensing provisions of this Code in accordance with
18 Sections 1037 to 1037.3, inclusive, and Sections 510 and 510.1.

19 (e) The provisions of Sections 1036 to 1036.24, inclusive, shall not apply to the Recreation and
20 Park Commission, which shall have exclusive jurisdiction to determine whether and under what
21 conditions mechanical amusement devices may be placed on property under its jurisdiction.

22 **SEC. 1036.3. APPLICATION FOR PERMIT.**

23 Application for ~~said~~ a mechanical amusement device permit required under Subsection (b) of
24 Section 1036.2 shall be made to the Entertainment Commission in the case of an Arcade
25 Permit, or to the Director in the case of an Ancillary Bar Use Permit, on forms provided by the

1 Entertainment Commission, shall be signed by the applicant and be accompanied by payment
2 of the filing fee set forth in Section 2.26, except that the Ancillary Bar Use Permit shall not be
3 subject to the filing fee. and The application shall contain the following information in addition
4 to whatever additional information is deemed necessary by the Director or the Entertainment
5 Commission:

6 (a) Name of the applicant.

7 (b) The name and address of any person, other than the applicant, who holds any
8 right, title or interest in or to each mechanical amusement device for which a permit is sought,
9 and in those instances where such person is other than an individual, there shall be filed with
10 the Entertainment Commission and kept available for public inspection, a statement showing,
11 in the case of a partnership, the names and addresses of the partners; in the case of a
12 corporation, the names and addresses of the majority stockholder(s) and directors and in the
13 case of a business trust, the names of the trustor, trustee, and beneficiary or beneficiaries.

14 (c) ~~Place~~ Where said mechanical amusement device is to be placed, maintained to be
15 operated or operated; and, if said mechanical amusement device or devices are to be placed,
16 maintained to be operated or operated in connection with any other business or calling, the
17 character of said business or calling.

18 ~~(d) A complete description of the type of the mechanical amusement device and the manner in~~
19 ~~which it is to be placed, maintained to be operated or operated.~~

20 ~~(d)(e)~~ The ~~total~~ maximum number of mechanical amusement devices to be placed,
21 maintained to be operated or operated at the location for which the permit is requested.

22 **SEC. 1036.4. NOTICE OF HEARING – ARCADE PERMIT.**

23 (a) When an application is filed for an Arcade new pPermit or for an increase in the
24 number of mechanical amusement devices authorized under an existing Arcade Permit
25 pursuant to Section 1036.3 ~~of this Article~~, the Director Entertainment Commission shall fix a time

1 and place for a public hearing thereon- and the Entertainment Commission shall hold the hearing
2 and determine whether to grant or deny the permit within 45 City business days of the date that the
3 applicant has submitted a complete application under Section 1036.3, except that this 45-day period
4 shall be extended for such period or periods of time that apply under the following circumstances:

5 (1) If the Entertainment Commission finds that an extension of time is necessary to
6 obtain additional information for its review of the application under the standards set forth in Section
7 1036.5, the time period shall be extended for an additional amount of time as the Commission
8 determines appropriate, up to 15 additional days.

9 (2) Upon the applicant's request, the Entertainment Commission shall continue the
10 hearing for an additional period of time to allow the applicant an opportunity to comply with the
11 requirements of Sections 1036 through 1036.24.

12 (3) If the applicant fails to post or maintain notice of the hearing as required by
13 Subsection (b) of this Section 1036.4, the Director shall have the hearing before the Entertainment
14 Commission continued for such period or periods of time that the Director determines necessary for the
15 applicant to comply with the posting requirement, in which case the time period is extended for that
16 additional period or periods of time.

17 (4) If the Director finds that the Entertainment Commission is unable to meet during the
18 45-day time period or any permitted time extension due to emergency circumstances, the time period
19 shall be extended until the Commission is able to meet; the Commission shall consider the matter at the
20 first meeting that it conducts following such circumstances.

21 (b) Not less than 10 days before the date of such hearing, the ~~Entertainment Commission~~
22 applicant shall cause to be posted a notice of such hearing in a conspicuous place on the
23 property in which or on which the mechanical amusement devices are to be operated. Such
24 notice shall set forth the ~~specific~~ type of mechanical amusement devices and the maximum
25 number thereof which the applicant intends to operate. The ~~posting shall be the exclusive~~

1 ~~responsibility of the Entertainment Commission, and the~~ applicant shall maintain said notice as
2 posted until after the date of the hearing.

3 (c) If the Commission does not grant or deny the mechanical amusement device Arcade
4 Permit within the time required by Subsection (a) of this Section 1036.4, including any extensions of
5 time provided for in Subsections (a)(1)-(4), the permit sought by the applicant shall be deemed granted,
6 conditioned on the requirements that the Permittee obtain all required permits from other City
7 departments within nine months in accordance with Subsection (g) of Section 1036.5 and comply with
8 all the requirements of Sections 1036 through 1036.24.

9 (d) The provisions of this Section 1036.4 shall not apply to an application for an
10 Ancillary Bar Use Permit. Such permit applications shall be reviewed and decided by the
11 Director without a formal hearing, provided that if the Director, Entertainment Commission
12 and/or Police Department has received more than one complaint in the last twelve months
13 regarding the permit applicant and/or the subject premises, the Director shall have the
14 discretion to submit such application for an Ancillary Bar Use Permit to the Entertainment
15 Commission for its determination whether to grant or deny the permit under the provisions of
16 Section 1036.5.

17 **SEC. 1036.5. INVESTIGATIONS- DETERMINATION OF APPLICATION FOR A**
18 **MECHANICAL AMUSEMENT DEVICE PERMIT.**

19 (a) Upon receipt of ~~said~~ an application for a mechanical amusement device permit, the
20 Director Entertainment Commission shall ~~cause to be investigated the statements as set forth in the~~
21 ~~application~~ promptly transmit a copy of the application, including notice of the hearing date in the
22 case of an Arcade Permit application, to the Chief of Police or the Chief's designee, the Director of
23 the Planning Department or the Director's designee, and, for those applications for permits to
24 maintain for operation mechanical amusement devices which are wired for electricity, the Director of
25 the Department of Building Inspection or the Director's designee.

1 **(b) If the permit applicant has not obtained all permits required for the operation of the**
2 **mechanical amusement device(s) from other City departments by the date of the hearing on the**
3 **application for an Arcade Permit, or by the date of the Director’s decision for an Ancillary Bar**
4 **Use Permit, the Entertainment Commission, or the Director as applicable, may grant a conditional**
5 **permit pending the issuance of the other required City permits; provided, however, the Commission, or**
6 **the Director as applicable, shall take this action only if sufficient information has been provided to**
7 **allow for adequate evaluation of the application and if grounds for denial, as set forth in Subsection**
8 **(c), are not present. Any permit conditionally granted by the Entertainment Commission under**
9 **this Subsection (b) may be appealed to the Board of Appeals. Any such appeal shall be filed**
10 **within 10 days of the decision of the Entertainment Commission's conditionally granting the**
11 **permit. No Person may operate an Arcade or Ancillary Use for which a permit has been conditionally**
12 **granted unless and until the Person has obtained all permits and authorizations required from other**
13 **City departments.**

14 **(c) The Entertainment Commission in the case of an Arcade Permit, or the Director in the**
15 **case of an Ancillary Bar Use Permit, shall grant or conditionally grant a the permit for an Arcade**
16 **or Ancillary Use unless a finding is made it finds that:**

17 **(1) The premises or the proposed operation of the Arcade or Ancillary Use does not**
18 **comply with the health, zoning, fire and safety requirements of the laws of the State of California or**
19 **City ordinances applicable to the Business;**

20 **(2) The building, structure, equipment or location of the proposed Arcade or Ancillary**
21 **Use cannot adequately accommodate the type and volume of pedestrian traffic anticipated;**

22 **(3) The premises or the proposed operation of the Arcade or Ancillary Use would**
23 **substantially interfere with the public health, safety and welfare or the peaceful enjoyment of**
24 **neighboring property;**

1 (4) If there is an unresolved citation applicable to the premises that has been issued by
2 a City department, the Entertainment Commission the permit shall not be granted the permit
3 without documented authorization from the department that issued the citation; or

4 (5) There has been a previous denial of a permit application or previous suspension or
5 revocation of a mechanical amusement device permit for the same permit applicant within the last 12
6 months, or the specific circumstances surrounding a previous denial, suspension or revocation from
7 more than one year ago warrant denial.

8 In the case of the Entertainment Commission's denial of an Arcade Permit, the
9 Commission shall state in writing, or on the record at the hearing, the reason(s) for the denial.
10 In the case of the Director's denial of an Ancillary Bar Use Permit, the Director shall state in
11 writing the reason(s) for the denial. A permit applicant whose application has been denied
12 may renew the application subject to the limitations set forth in Section 31 of the Business and
13 Tax Regulations Code.

14 (d) If the Chief of Police or the Chief's designee, or the Director of the Department of Building
15 Inspection or the Director's designee, in person at the Entertainment Commission hearing on the
16 permit application or in writing prior to the hearing, objects in writing, or in the case of an
17 Arcade Permit, at the Commission hearing, to the granting of the permit on the basis that the
18 Commission should make one or more of the findings stated in Subsections (c)(1)-(5) above apply,
19 the Commission, or the Director as applicable, may not issue the permit without specifically
20 addressing the objection in writing or, in the case of an Arcade Permit, on the record, at a
21 Commission meeting, and explaining specifically why the objection does not warrant the finding.

22 (e) The Director shall forward to the Director of the Department of Building Inspection written
23 notice of the conditional granting or denial of said permit if said mechanical amusement device is
24 wired for electricity. The Department of Building Inspection shall promptly respond to requests from
25 permit applicants for inspection of mechanical amusement devices wired for electricity.

1 (f) When the Entertainment Commission in the case of an Arcade Permit, or the Director in
2 the case of an Ancillary Bar Use Permit, grants or conditionally grants a mechanical amusement
3 device permit, the Commission or the Director as applicable may impose additional reasonable time,
4 place and manner conditions on the permit. In considering whether to impose said conditions, the
5 Commission shall consider where relevant the circumstances surrounding any previous denial of a
6 permit application or previous suspension or revocation of a permit for the same permit applicant or
7 Permittee shall be considered.

8 (g) If an applicant has been conditionally granted a permit but has not obtained all of the
9 permits required from other City departments within nine months from the date that the Entertainment
10 Commission in the case of an Arcade Permit, or the Director in the case of an Ancillary Bar Use
11 Permit, conditionally granted the permit, the conditionally granted permit shall expire by operation of
12 law and be void. If, during the nine-month period, the Director of the Department of Building
13 Inspection objects to the application for a mechanical amusement device permit on the grounds that the
14 permit does not comply with the San Francisco Building Code or Electrical Code , the applicant shall
15 have the opportunity of correcting such conditions as have been disapproved and if such conditions
16 have been corrected to the satisfaction of the Director of the Department of Building Inspection, the
17 permit may be issued.

18 (h) Appeals.

19 (1) Arcade Permits. The Commission's granting, denial, suspension or
20 revocation of an Arcade Permit, including a conditionally granted permit or an amendment to a
21 permit, or the Commission's revocation of an Ancillary Bar Use Permit, may be appealed to
22 the Board of Appeals within ten days of the decision of the Entertainment Commission, as
23 provided in Section 8 of the Business and Tax Regulations Code.

24 (2) Ancillary Bar Use Permit. The Director's granting, denial or suspension of
25 an Ancillary Bar Use Permit, including a conditionally granted permit or an amendment to a

1 permit, may be appealed to the Entertainment Commission by filing a written request for
2 review within five City business days of the Director's decision. The Entertainment
3 Commission shall hear and decide the appeal as expeditiously as possible, but in no event
4 later than 21 days after the date that the appeal is filed. The Entertainment Commission may
5 reverse the Director's decision only upon a finding that there was either error or abuse of
6 discretion on the part of the Director. The Entertainment Commission's decision on the
7 appeal may be appealed to the Board of Appeals within ten days of the decision of the
8 Commission, as provided in Section 8 of the Business and Tax Regulations Code.

9 (3) Exhaustion Not Required. Permittee or permit applicant may seek
10 immediate judicial review of the actions described in Subsections (h)(1) and (h)(2) of this
11 Section pursuant to California Code of Civil Procedure Section 1085 or Section 1094.8, as
12 these provisions may be amended, including any successor provisions, or any other
13 procedure provided by law. The Permittee or permit applicant may, but is not required to,
14 exhaust his or her administrative remedies before the Entertainment Commission or before
15 the Board of Appeals.

16 ~~*—Any permit to maintain for operation mechanical amusement devices which are wired for*~~
17 ~~*electricity must have been approved by the Department of Public Works prior to its final issuance by*~~
18 ~~*the Entertainment Commission. The Director of Public Works shall determine whether the ordinances*~~
19 ~~*of the City and County of San Francisco and the rules and regulations of said department pertaining to*~~
20 ~~*such mechanical amusement devices are complied with.*~~

21 ~~*—The Entertainment Commission may grant a permit for the operation of a mechanical*~~
22 ~~*amusement device conditional upon approval of the Director of the Department of Public Works.*~~

23 ~~*—Any permit for operation of a mechanical amusement device granted by the Entertainment*~~
24 ~~*Commission conditionally upon the approval of the Director of the Department of Public Works may be*~~

1 ~~appealed to the Board of Permit Appeals. Such appeal must be filed within 10 days of the final decision~~
2 ~~of the Entertainment Commission issuing the conditional permit.~~

3 ~~—Any permit granted by the Entertainment Commission conditionally upon approval of the~~
4 ~~Director of the Department of Public Works shall expire within six months from the date of the final~~
5 ~~decision of the Entertainment Commission if the Director's approval is not granted. The Entertainment~~
6 ~~Commission shall cause to be forwarded to the Director of Public Works for investigation those~~
7 ~~applications for permits to maintain for operation mechanical amusement devices which are wired for~~
8 ~~electricity.~~

9 **~~SEC. 1036.6. DISAPPROVAL OF APPLICATION—CONDITIONS CORRECTED—APPROVAL.~~**

10 ~~In the event that the application for a mechanical amusement device permit is disapproved by~~
11 ~~the Director of Public Works, the Entertainment Commission shall notify the applicant for said permit~~
12 ~~of such fact. Upon receiving said notice from the Entertainment Commission, the applicant shall have~~
13 ~~the opportunity of correcting such conditions as have been disapproved. This correction shall be made~~
14 ~~within 10 days after receipt of said notice; and, if such conditions have been corrected to the~~
15 ~~satisfaction of the Director of Public Works, the permit may be issued.~~

16 **~~SEC. 1036.7. ISSUANCE OR DENIAL OF PERMIT.~~**

17 ~~If the Entertainment Commission approves the granting of said permit he may issue a permit to~~
18 ~~said applicant, which permit shall be serially numbered and the renewal or continuance thereof shall~~
19 ~~be governed by the provisions of Section 23, Article I, Part III, of the San Francisco Municipal Code;~~
20 ~~provided, if said mechanical amusement device is wired for electricity, said application for such permit~~
21 ~~shall first be approved by the Director of Public Works. The Entertainment Commission may, in the~~
22 ~~exercise of sound discretion, deny said permit.~~

23 ~~—The Entertainment Commission shall cause to be forwarded to the Director of Public Works~~
24 ~~written notice of his granting or denial of said permit if said mechanical amusement device is wired for~~
25 ~~electricity.~~

1 **SEC. 1036.68. ~~CERTAIN MECHANICAL AMUSEMENT GAMBLING~~ DEVICES**
2 **PROHIBITED.**

3 No permit shall be issued to any applicant relating to any mechanical amusement
4 device, ~~which for each coin, slug or token inserted makes available to the player, for actual play, only~~
5 ~~one ball or marble, nor shall any permit be issued to any applicant relating to any mechanical~~
6 ~~amusement device which permits or that is designed or adapted to the insertion of more than one~~
7 ~~coin, slug or token, for the playing of a single complete game; or which permits or is adapted to the~~
8 ~~insertion of additional coins, slugs or tokens during the playing of or before the completion of the game~~
9 ~~for which the original coin, slug or token was inserted in said mechanical amusement device. Nothing~~
10 ~~in this Section is intended to prohibit the insertion of more than one coin for the sole purpose of~~
11 ~~reaching the amount or price required to play the game, and allow~~ the insertion of additional coins,
12 slugs or tokens in order to ~~which does not~~ change the odds, grant bonuses, or otherwise affect
13 the method of play or the outcome of the game or constitute, result in or enable illegal gambling.
14 The Chief of Police or his or her designee may impound any mechanical amusement device being used
15 in violation of this Section 1036.6; and, if any court of competent jurisdiction shall determine that said
16 mechanical amusement device, or the use or operation thereof, violates or has violated any of said
17 laws, ordinances, rules or regulations, said mechanical amusement device shall be forfeited to the City.

18 **SEC. 1036.79. PERMIT FORWARDED TO TAX COLLECTOR, LICENSE FEES.**

19 When any permit is issued under the provisions of ~~this Article~~ Sections 1036 through
20 1036.24, inclusive, the Entertainment Commission shall cause such permit to be forwarded to
21 the office of the Tax Collector for delivery to the Permittee upon the payment of the license
22 fees.

23 **SEC. 1036.810. LICENSE FEES.**

24 Every holder of a mechanical amusement device permit shall pay the Tax Collector for
25 each Arcade or Ancillary Use ~~separate mechanical amusement device which that~~ the permit

1 authorizes, an annual license fee, on or before March 31, in accordance with the provisions of
2 Section 76.1 of the Business and Tax Regulations Code.

3 **~~SEC. 1036.11. ELECTRICAL INSPECTION COSTS.~~**

4 ~~In calculating the fees earned by the Electrical Inspection division of the Department of Public~~
5 ~~Works pursuant to the provisions of Section 24 of the Charter of the City and County of San Francisco~~
6 ~~a percentage of the license fees derived pursuant to Section 1036.10 of this Article shall be credited to~~
7 ~~said division pursuant to the annual determination by the Controller as provided by Section 2.21 of this~~
8 ~~Code.~~

9 **SEC. 1036.912. CONTENTS OF LICENSES.**

10 The Tax Collector shall issue a license for such Arcade or Ancillary Use ~~mechanical~~
11 ~~amusement device~~ for which the fee was paid, showing thereon the:

- 12 (a) Name of the Permittee;
- 13 (b) Address at which the mechanical amusement device(s) is or are to be operated or
14 maintained to be operated;
- 15 (c) The maximum number of such mechanical amusement devices ~~and the type or kind of~~
16 ~~game, contest or amusement played thereon; and~~
- 17 (d) The Serial number of the permit and the expiration date of the license.

18 **SEC. 1036.1013. POSTING LICENSE IN PREMISES.**

19 The license shall be permanently and conspicuously posted at the location of the
20 machines in the premises wherein said mechanical amusement devices are to be operated or
21 maintained to be operated, and shall not be removed from said location during the period for
22 which said license was issued.

23 **SEC. 1036.1114. REMOVAL OR TRANSFER OF LICENSE TO OTHER PREMISES**
24 **PROHIBITED.**

1 Nothing in Sections 1036 to 1036.~~2434~~, inclusive, shall permit the removing or
2 transferring of the license to any other premises other than those for which the license was
3 originally issued.

4 **SEC. 1036.~~1215~~. NO PRORATING OR REFUNDING OF LICENSE FEE.**

5 License fees paid under the provisions of Sections 1036.~~8-9~~ shall not be prorated or
6 refunded.

7 **SEC. 1036.~~1316~~. LICENSE FEE PAID BY OWNER OR OPERATOR.**

8 When any one of the persons mentioned in subdivisions (a) and (b) *under the definition*
9 *of the term "Owner and Operator of a Mechanical Amusement Device" in Section 1036* obtains
10 a permit and pays a license fee for the maintenance or operation of said mechanical
11 amusement device, the said permit and license fee shall cover each of the persons mentioned
12 in said subdivisions (a) and (b).

13 **SEC. 1036.~~1417~~. RENEWAL OF LICENSE.**

14 Licenses for mechanical amusement devices shall be renewed as set forth in Sections
15 2.8 and 2.10 of this Code.

16 **SEC. 1036.~~1518~~. PROCEDURE WHERE NO CURRENT PERMIT OR LICENSE.**

17 *(a) If any Arcade or Ancillary Use requiring a permit mechanical amusement device is placed,*
18 *installed, operated or maintained to be operated without a current and valid permit license, the*
19 *Director may impose administrative penalties and seek civil penalties against the owner or operator of*
20 *the mechanical amusement device(s) in accordance with the procedures set forth in Section 1060.25.*
21 *~~Chief of Police shall immediately cause same to be impounded and shall not release said mechanical~~*
22 *~~amusement device until a penalty equal to the filing fee for mechanical amusement devices currently in~~*
23 *~~effect plus \$25 for each mechanical amusement device impounded has been paid to the Police~~*
24 *~~Department.~~*

1 ~~Mechanical amusement devices impounded under the provisions of this Section shall be held for~~
2 ~~a period of 90 days and if not redeemed within such period shall be destroyed or otherwise disposed by~~
3 ~~the Chief of Police. Mechanical amusement devices impounded under the provisions of this Section and~~
4 ~~subsequently released as set forth in this Section shall not be placed, operated or maintained to be~~
5 ~~operated without obtaining a mechanical amusement device permit and paying the current license fee.~~

6 (b) The Entertainment Commission in the case of an Arcade Permit, or the Director in the
7 case of an Ancillary Bar Use Permit, may suspend or revoke any permit issued under Section 1036.5
8 if the Permittee has an expired license and/or has failed to pay the annual license fee to the Tax
9 Collector required under Section 1036.8.

10 (c) The remedies specified in this Section 1036.15 shall not preclude any other remedies
11 available under state or local law.

12 **SEC. 1036.~~1619~~. SUSPENSION, REVOCATION OR REINSTATEMENT OF A PERMIT,**
13 **PROCEDURE FOR.**

14 ~~When the Entertainment Commission shall determine that the permittee or any of the~~
15 ~~permittee's servants, agents or employees, in the use, operation or maintenance of any such mechanical~~
16 ~~amusement device or in the use, operation or maintenance of the premises is violating or attempting to~~
17 ~~violate any law of the State of California or any ordinance of the City and County of San Francisco or~~
18 ~~the rules and regulations of any department thereof concerned or that the permittee has failed to take~~
19 ~~adequate security measures to prevent patrons, on or about the premises, from violating any of the~~
20 ~~above laws; or, if in the opinion of the Entertainment Commission, it is deemed necessary for the~~
21 ~~protection of the health, safety and welfare of the public, the Entertainment Commission, after written~~
22 ~~notice to the permittee, shall have the power to suspend and, after due and proper hearing, shall have~~
23 ~~the power to revoke, any permit issued under the provisions of Sections 1036 to 1036.34, inclusive.~~

24 (a) Mechanical amusement device permits may be suspended by the Director and the
25 Entertainment Commission or revoked by the Entertainment Commission and the Director in

1 accordance with the standards and procedures set forth in Sections 1060.20 through 1060.20.4,
2 inclusive.

3 (b) The Entertainment Commission shall cause to be forwarded to the Tax Collector,
4 and, if said mechanical amusement device is wired for electricity, to the Director of the
5 Department of Building Inspection ~~Public Works~~, written notice of any revocation, suspension or
6 reinstatement of any permit herein provided for.

7 **SEC. 1036.~~1720~~. RULES AND REGULATIONS ~~TO BE ADOPTED~~.**

8 The ~~Chief of Police, Entertainment Commission and the Director of Public Works~~, after
9 public hearing thereon, ~~are authorized to may~~ adopt, promulgate and enforce such rules and
10 regulations regarding mechanical amusement devices as will enable the Police Department,
11 Entertainment Commission and the Department of Building Inspection ~~Public Works~~ to enforce
12 and carry out the meaning and intent of Sections 1036 to 1036.~~2434~~, inclusive.

13 **SEC. 1036.~~1821~~. ASCERTAINMENT OF COMPLIANCE WITH ALL LAWS, ETC. –**
14 **INSPECTION THEREFOR.**

15 It shall be the duty of the Entertainment Commission ~~Chief of Police~~ to ascertain that all
16 laws of the State of California, the provisions of Sections 1036 to 1036.~~2434~~, inclusive, all City
17 ordinances ~~of the City and County of San Francisco~~, and the rules and regulations of any
18 departments thereof ~~concerned~~, pertaining to mechanical amusement devices are strictly
19 complied with. ~~and~~ For that purpose, the owner or operator of an Arcade or Ancillary Use shall
20 provide representatives of the Entertainment Commission and the Police Department, and, if said
21 mechanical amusement device is wired for electricity, the representatives of the Department
22 of Building Inspection, ~~Public Works~~, shall access ~~have access~~ to inspect any mechanical
23 amusement device during any time mutually agreed upon by the City and the owner or operator or, if
24 such time cannot be agreed upon, during any hours that the business open to the public ~~at any and all~~

1 *times, and the same shall be inspected by each of said departments as often as may be deemed*
2 *necessary.*

3 **SEC. 1036.1922. WHEN DEEMED A PUBLIC NUISANCE – PROCEDURE THEREON.**

4 Any mechanical amusement device operated or maintained to be operated in violation
5 of any law of the State of California or of Sections 1036 to 1036.2434, inclusive, or any City
6 ordinances ~~of the City and County of San Francisco~~ or the rules and regulations of any state or
7 municipal departments thereof ~~concerned~~ shall be deemed to be a public nuisance, and any
8 such mechanical amusement device so operated or maintained to be operated ~~shall~~ may be
9 impounded by the Chief of Police or his or her designee; and, if any court of competent
10 jurisdiction shall determine that said mechanical amusement device, or the use or operation
11 thereof, violates or has violated any of said laws, ordinances, rules or regulations, said
12 mechanical amusement device shall be forfeited to the City ~~confiscated by said Chief of Police;~~
13 ~~but, if said mechanical amusement device is one which may be legally operated under the provisions of~~
14 ~~Sections 1036 to 1036.34, inclusive, of this Article and is seized for the failure of the owner or operator~~
15 ~~thereof to obtain the necessary permit or to pay the necessary license fee for the maintenance or~~
16 ~~operation of said mechanical amusement device, said mechanical amusement device shall be dealt with~~
17 ~~as provided in Section 1036.18 of this Article.~~

18 **~~SEC. 1036.23. MACHINES EXCEPTED FROM PROVISION HEREOF.~~**

19 ~~The provisions of Sections 1036 to 1036.34, inclusive, shall not apply to any machine or~~
20 ~~mechanical amusement device which, in return for the coin deposited in said mechanical amusement~~
21 ~~device, will deliver the equivalent value of said coin in merchandise; provided, that no prize, reward,~~
22 ~~bonus or other thing of value is delivered with said merchandise.~~

23 **SEC. 1036.2024. PENALTIES.**

24 Violations of Sections 1036 through 1036.24, inclusive, shall be subject to the provisions for
25 criminal, administrative, civil penalties set forth in Section 1060.25, in addition to the permit

1 ~~suspension and revocation provisions set forth in Section 1036.16. Any person who violates~~ any
2 of the provisions of Sections 1036 to 1036.2434, inclusive, ~~more than once or who violates~~
3 ~~Section 1036.6, shall may be guilty of a misdemeanor and, in addition to such other penalties as are~~
4 ~~provided by law, shall have his permit or permits revoked by the Entertainment Commission and shall~~
5 ~~be precluded from procuring any further permits for a mechanical amusement device. When, in~~
6 ~~the opinion of the Entertainment Commission, any mechanical amusement device is being used or~~
7 ~~operated in violation of any section of any article relating to the operation of mechanical amusement~~
8 ~~devices, the Entertainment Commission shall in its discretion have the power to revoke the permit for~~
9 ~~such mechanical amusement device. Any person who knowingly and willingly furnishes a mechanical~~
10 ~~amusement device to any permittee, which device violates any of the provisions of Sections 1036 to~~
11 ~~1036.34, inclusive, of this Article shall henceforth in the discretion of the Entertainment Commission be~~
12 ~~precluded from furnishing any mechanical amusement device or devices to any permittee in the City~~
13 ~~and County of San Francisco.~~

14 **SEC. 1036.2125. PERMIT AND LICENSE REQUIRED NOTWITHSTANDING ANY OTHER**
15 **PROVISION OF CODE.**

16 The issuance of a permit or license under the provisions of Sections 1036 to
17 1036.2434, inclusive, shall not exempt the permittee or licensee ~~, notwithstanding any section of~~
18 ~~the San Francisco Municipal Code or any section of any ordinance of the City and County of San~~
19 ~~Francisco making any section or sections thereof inapplicable, from the any other~~ provisions of the
20 ~~San Francisco~~ Municipal Code or any City ordinance or ordinances ~~of the City and County of San~~
21 ~~Francisco~~ requiring a permit or license.

22 **~~SEC. 1036.26. PARTIAL REPEAL.~~**

23 ~~Any and all ordinances, or parts thereof, in conflict with the provisions of Sections 1036 to~~
24 ~~1036.34, inclusive, are hereby repealed but only to such extent as conflict may exist.~~

25 **SEC. 1036.2228. SAVING CLAUSE – NONWAIVER OF DEBTS DUE AND UNPAID.**

1 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of
2 Sections 1036 to 1036.2434, inclusive, is for any reason held to be *invalid or unconstitutional by*
3 *a decision of any court of competent jurisdiction unconstitutional*, such decision~~s~~ shall not affect the
4 validity of the remaining portions of Sections 1036 to 1036.2434, inclusive. The Board of
5 Supervisors hereby declares that it would have ~~passed~~ *enacted* Sections 1036 to 1036.2434,
6 inclusive, and each and every section, subsection, ~~subdivision, paragraph,~~ sentence, clause, ~~and~~
7 phrase, and word not declared invalid or unconstitutional without regard to whether any other portion
8 of said sections would be subsequently declared invalid or unconstitutional. thereof, irrespective of the
9 fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or
10 phrases be declared unconstitutional.

11 The enactment of Sections 1036 to 1036.2434, inclusive, shall not in any manner be
12 construed as a waiver of any license or permit fees or any other fees or money due and
13 unpaid under the provisions of any section of the ~~San Francisco~~ Municipal Code or any City
14 ordinance ~~of the City and County of San Francisco.~~

15 **~~SEC. 1036.29. BILLIARD AND POOL TABLES EXCEPTED.~~**

16 ~~Sections 1036 through 1036.34, inclusive, of this Code shall not apply to coin-operated billiard,~~
17 ~~pool or combination tables. All such tables are subject to the licensing provisions of this Code in~~
18 ~~accordance with Sections 1037 to 1037.3, inclusive, and Sections 510 and 510.1.~~

19 **~~SEC. 1036. 30. PURPOSE AND FINDINGS.~~**

20 ~~—The Board of Supervisors of the City and County of San Francisco hereby finds and declares~~
21 ~~as follows:~~

22 ~~—(a) The number of video game machines is rapidly increasing in the City and County of San~~
23 ~~Francisco. Between January 1, 1982 and March 31, 1982, the Police Department issued 81 permits for~~
24 ~~mechanical amusement devices covering a total of 493 machines, approximately 90 percent of which~~
25

1 ~~were video game machines. Currently, there are approximately 48 applications pending for mechanical~~
2 ~~amusement device permits for an additional 178 video game machines.~~

3 ~~—(b) As the number of video game machines has increased, public concern has grown with~~
4 ~~respect to the location of these machines, the number of machines permitted at any given location,~~
5 ~~creation of street and sidewalk congestion where these machines are concentrated, accessibility to the~~
6 ~~machines by minors during school hours, and the occurrence of public disturbances and petty crimes in~~
7 ~~the vicinity of these machines.~~

8 ~~(c) It is hereby declared to be the policy of the Board of Supervisors to regulate reasonable~~
9 ~~and orderly public access for patrons wishing to play video game machines, while at the same time~~
10 ~~protecting the health, safety and welfare of the general public, both on the premises and in the vicinity~~
11 ~~of the premises where video games are located.~~

12 **SEC. 1036.2331. MECHANICAL AMUSEMENT DEVICES; LOCATION.**

13 (a) **Prohibited.** It shall be unlawful for any owner or operator of a mechanical
14 amusement device to cause, permit or allow same to be located, operated or maintained to be
15 operated, and neither the Director nor the Entertainment Commission may ~~not~~ issue a permit
16 for said devices, *in the following areas:*

17 ~~(1) Within a building which has a public entrance which is located within 300 feet of the~~
18 ~~nearest street entrance to or exit from any public playground or public or private school of elementary~~
19 ~~or high school grades; said 300 feet to be measured from said entrance or exit in the most direct line or~~
20 ~~route which may be walked, legally or not, on, along or across said street or streets adjacent said~~
21 ~~public playground or public or private school of elementary or high school grades; provided, however,~~
22 ~~that this Section is not intended to prevent the placement of mechanical amusement devices on the~~
23 ~~premises of public or private schools of elementary or high school grades.~~

24 ~~—(2) Within any area of the City and County of San Francisco zoned exclusively for~~
25 ~~residential use, as defined in Sections 790.88 and 890.88 of the Part II, Chapter II (City Planning~~

Code ~~or any successor legislation~~ of the ~~Municipal Code~~. The restrictions set forth in this Subsection (a) shall not apply (1) in such areas as may be designated by resolution of the Board of Supervisors, or (2) to nonprofit religious institutions, schools, hospitals, convalescent and nursing homes and nonprofit community centers.

~~— (3) In any service station or automobile repair garage in areas zoned for neighborhood commercial or community business use as defined in Part II, Chapter II (City Planning Code) of the Municipal Code.~~

(b) Ancillary Use: One Through Ten Mechanical Amusement Devices Allowed.

Subject to the permit requirements set forth above in Section 1036.3 and except where prohibited by Subsection (a) ~~of this Section 1036.23 or by the Planning Code~~, an owner or operator of a mechanical amusement device or devices may cause, permit or allow same to be located, operated or maintained to be operated within any area of the City ~~and County of San Francisco~~ one through ten mechanical amusement devices as an Accessory Ancillary Use, subject to the restrictions of this subsection:

~~—The maximum number of mechanical amusement devices allowed in each premises shall be determined by the number of square feet of enclosed public retail floor space on a single floor under a single management as follows:~~

<i>Square Feet</i>	<i>Maximum Number of MADs</i>
<i>0-300</i>	<i>0</i>
<i>301-1000</i>	<i>2</i>
<i>1001-1500</i>	<i>3</i>
<i>1501-2000</i>	<i>4</i>
<i>2001-2500</i>	<i>5</i>

2501-3000	6
3001-3500	7
3501-4000	8
4001-4500	9
4501 or more	10

(c) Arcades: **Eleven or More Mechanical Amusement Devices Allowed.** Subject to the permit requirements set forth above in Section 1036.3 and except where prohibited by Subsection (a) of this Section 1036.23 or by the Planning Code, the owner or operator of mechanical amusement devices may operate an Arcade ~~except in those areas prohibited in Subsection (a) and in those areas zoned exclusively for neighborhood commercial or community business use.~~

~~(d) Exceptions. The limitations and restrictions set forth in Subsections (a) and (b) above, shall not apply in the following instances:~~

~~(1) Where the application is for mechanical amusement devices in an industrial zone or in the area bounded on the west by Van Ness Avenue, on the south by North Point Street and on the east and north by San Francisco Bay, or such similar areas as may be designated by resolution of the Board of Supervisors from time to time.~~

~~—(2) Where a public or private school requests authorization from the Entertainment Commission for a permit to place mechanical amusement devices on premises under the jurisdiction of said public or private school and intended for the use of students and staff of said school.~~

~~—(3) Premises upon which the California Department of Alcoholic Beverage Control has authorized on-sale consumption of alcoholic beverages, provided that the premises or operations may not lawfully allow minors thereon.~~

1 — ~~(4) Bowling alleys, except that there shall be no more than two mechanical amusement~~
2 ~~devices for each bowling lane. The mechanical amusement devices in bowling alleys shall not be~~
3 ~~separately accessible from the street.~~

4 — ~~(5) Billiard parlors.~~

5 — ~~(6) Tourist hotels of more than 25 guest rooms; provided, however, that the mechanical~~
6 ~~amusement devices be intended for use of guests only and provided further that the mechanical~~
7 ~~amusement devices be neither accessible to the public except by passing the front desk nor visible from~~
8 ~~the street.~~

9 — ~~(7) Theaters, both for performing arts and movies; provided, however, that the mechanical~~
10 ~~amusement devices be located in an area in which only patrons who have paid admission are allowed,~~
11 ~~and that all provisions in the Fire Code respecting the placement of machines be met.~~

12 — ~~(8) Churches, schools, hospitals, convalescent and nursing homes and nonprofit community~~
13 ~~centers (e.g. YMCA); provided, however, that the use of such machines be incidental and subordinate~~
14 ~~to the primary purpose of the institution.~~

15 **~~SEC. 1036.31-1. ARCADE LOCATION; LIMITATION.~~**

16 — ~~Notwithstanding the provisions of Section 1036.31, it shall be unlawful for any owner or~~
17 ~~operator of an arcade to cause, permit or allow same to be located, operated or maintained to be~~
18 ~~operated, and the Entertainment Commission may not issue a permit for said arcade, within a building~~
19 ~~which has a public entrance which is located within 1500 feet of the nearest public entrance to or exit~~
20 ~~from any arcade which has a valid permit. Said 1500 feet shall be measured from said entrance or exit~~
21 ~~in the most direct route which may be walked, legally or not, on, along or across the street, streets or~~
22 ~~public rights-of-way adjacent to said arcade.~~

23 **~~SEC. 1036.2432. ARCADES AND ANCILLARY USE— OPERATING STANDARDS.~~**

24 ~~(a) Arcades.~~ The following standards and regulations shall apply to the operation and
25 maintenance of Aarcades in the City.

1 (a) (1) All mechanical amusement devices within the premises shall be visible to
2 and supervised by an adult attendant or attendants, age 18 years or older. Said attendant(s)
3 shall be present at all times when the arcade is open to the public.

4 ~~—(b) The supervision of the patrons on and about the premises shall be adequate to protect~~
5 ~~public against conduct of patrons that is detrimental to the public health, safety, and general welfare.~~

6 ~~—(c) The permit holder shall be responsible for ensuring that persons under the age of 18~~
7 ~~years not be allowed to operate mechanical amusement devices during the school year from the day~~
8 ~~after Labor Day to Memorial Day, Monday through Friday, except legal holidays, between the hours of~~
9 ~~7:00 a.m. and 3:00 p.m., or between the hours of 10:00 p.m. and 7:00 a.m. on all days preceding~~
10 ~~school days and between 11:00 p.m. and 7:00 a.m. on all other days unless accompanied by an~~
11 ~~authorized agent of the School District, parent or legal guardian; provided, however, that premises~~
12 ~~which have mechanical amusement devices as provided under Section 1036.31(d), Subparagraphs 3, 4,~~
13 ~~5, 6, 7 and 8 are exempted from the provisions of this subsection.~~

14 ~~—(d) Establishments dispensing food services shall provide adequate waste receptacles, which~~
15 ~~shall be conveniently located in the vicinity of the mechanical amusement devices; arcade premises~~
16 ~~shall be adequately ventilated and illuminated.~~

17 (e-2) The Permittee permit holder shall comply with security lighting requirements,
18 token-use requirements and such other reasonable requirements determined by the
19 Entertainment Commission to be necessary to minimize danger to the community resulting
20 from the operation of the arcade. These requirements shall be set forth in the permit or, in the
21 event circumstances change, by appropriate amendment to the permit.

22 ~~—(f) An arcade may have no more than one mechanical amusement device per 30 square feet~~
23 ~~of public retail floor space.~~

24 (g-3) As a condition for obtaining a permit for mechanical amusement devices,
25 the applicant shall be required to provide a master switch, ~~or~~ switches, or fuse panel readily

1 accessible to the Permittee permit holder, employees or agent of the Permittee permit holder and
2 the Police Department, that can immediately turn off all mechanical amusement devices in the
3 Aarcade. The permit shall also specify that the applicant consents to and authorizes the Police
4 Department to turn off all mechanical amusement devices ~~for a period of up to six hours~~ at any
5 time there is a clear and present danger to the public safety.

6 (b) Ancillary Use. The Permittee for an Ancillary Use shall comply with such reasonable
7 requirements as determined by the Director Entertainment Commission to be necessary to minimize
8 danger to the community resulting from the operation of the mechanical amusement devices. These
9 requirements shall be set forth in the permit or, in the event circumstances change, by appropriate
10 amendment to the permit.

11 **~~SEC. 1036.33. ACCESSORY USES — OPERATING STANDARDS.~~**

12 ~~The following standards and regulations shall apply to the operation and maintenance of all~~
13 ~~premises containing mechanical amusement devices except those premises regulated under Section~~
14 ~~1036.32 of this Code:~~

15 ~~(a) Mechanical amusement devices shall be located in the main body of the premises, not~~
16 ~~separated therefrom by any wall or partition.~~

17 ~~(b) The supervision of the patrons on the premises shall be adequate to ensure that there be no~~
18 ~~conduct that is detrimental to the public health, safety, and general welfare. Where there are five or~~
19 ~~more mechanical amusement devices within the premises, all mechanical amusement devices within~~
20 ~~said premises shall be visible to and supervised by an adult attendant or attendants, age 18 years or~~
21 ~~older. Said attendant(s) shall be present at all times when any mechanical amusement device is being~~
22 ~~operated.~~

23 ~~(c) The permit holder for an Ancillary Use shall comply with such reasonable requirements as~~
24 ~~determined by the Entertainment Commission to be necessary to minimize danger to the community~~

1 *resulting from the operation of the mechanical amusement devices. These requirements shall be set*
2 *forth in the permit or, in the event circumstances alter, by appropriate amendment to the permit.*

3 *—(d) The permit holder shall be responsible for ensuring that mechanical amusement devices*
4 *be kept turned off during the school year from the day after Labor Day to Memorial Day, Monday*
5 *through Friday, except legal holidays, between the hours of 7:00 a.m. and 3:00 p.m., and between the*
6 *hours of 10:00 p.m. and 7:00 a.m. on all days preceding school days and between 11:00 p.m. and 7:00*
7 *a.m. on all other days; provided, however, that premises which have mechanical amusement devices as*
8 *provided under Section 1036.31(d), subparagraphs 3, 4, 5, 6, 7 and 8 be exempted from the provisions*
9 *of this subsection.*

10 *—(e) Establishments dispensing food services shall provide adequate waste receptacles which*
11 *shall be conveniently located in the vicinity of the mechanical amusement devices.*

12 ***SEC. 1036.34. EXCEPTION TO REQUIREMENTS.***

13 *Notwithstanding the provisions of Section 1036.31 and 1036.31-1, any person who possesses a*
14 *valid permit heretofore issued by the Chief of Police for the ownership, operation and maintenance of*
15 *mechanical amusement devices in accordance with the provisions of Sections 1036 to 1036.29,*
16 *inclusive, may operate those mechanical amusement devices included in said permit upon the premises*
17 *for which said permit to operate was issued until the expiration, revocation or suspension of said*
18 *permit without obtaining a new permit; provided, however, that the permit holder comply with the*
19 *requirements of Sections 1036 to 1036.33, excluding Sections 1036.31 and 1036.31-1, from the*
20 *effective date of this Section; provided further that said permit may not be transferred. The operating*
21 *standards set forth in Section 1036.33 of this Article shall apply to the operation and maintenance of*
22 *all premises containing mechanical amusement devices in those areas zoned exclusively for*
23 *neighborhood-commercial or community business use, regardless of the number of mechanical*
24 *amusement devices on the premises.*

25 ***SEC. 1036.35. EXEMPTION.***

1 ~~Notwithstanding any provisions of Sections 1036 to 1036.34, inclusive, to the contrary, the~~
2 ~~Recreation and Park Commission of the City and County of San Francisco shall have exclusive~~
3 ~~jurisdiction to determine whether and under what conditions mechanical amusement devices may be~~
4 ~~placed on property under its jurisdiction.~~

5 **SECTION 1036.25. UNDERTAKING FOR THE GENERAL WELFARE.**

6 In enacting and implementing Sections 1036 through 1036.24, inclusive, the City is assuming an
7 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers
8 and employees, an obligation for breach of which it is liable in money damages to any person who
9 claims that such breach proximately caused injury.

10
11 Section 3. Article 1 of the Business and Tax Regulations Code is hereby amended by
12 revising Section 8 to read as follows:

13 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

14 Except for variance decisions and ~~place of entertainment, limited live performance,~~
15 ~~extended hours premises, and loudspeaker permits~~ issued by the Entertainment Commission
16 or its Director, appeals to the Board of Appeals shall be taken within 15 days from the making
17 or entry of the order or decision from which the appeal is taken. Appeals of variance decisions
18 shall be taken within 10 days.

19 Appeals of actions taken by the Entertainment Commission or its Director on the
20 granting, denial, amendment, suspension, or revocation of a permit ~~Place of Entertainment,~~
21 ~~Limited Live Performance, One Time Event, or Extended Hours Premises Permit~~, or on denial
22 of exceptions from regulations for Extended-Hours Premises Permit, shall be taken within 10
23 days from the making of the decision. Nothing in this Section is intended to require an appeal
24 to the Board of Appeals if any provision of Article 15. Article 15.1 (Entertainment Regulations
25 Permit and License Provisions) or Article 15.2 (Entertainment Regulations for Extended-Hours

1 Premises) of the Police Code governing these permits otherwise provides. Appeals shall be
2 taken by filing a notice of appeal with the Board of Appeals and paying to said Board at such
3 time a filing fee as follows:

4 (a) Zoning Administrator, Planning Department, Director of Planning and Planning
5 Commission.

6 (1) For each appeal from the Zoning Administrator's variance decision the fee
7 shall be \$600.

8 (2) For each appeal from any order, requirement, decision or other determination
9 (other than a variance) made by the Zoning Administrator, the Planning Department or
10 Commission or the Director of Planning, including an appeal from disapproval of a permit
11 which results from such an action, the fee shall be \$600.

12 (b) Department of Building Inspection.

13 (1) For each appeal from a Department of Building Inspection denial, conditional
14 approval or granting of a residential hotel or apartment conversion permit the fee shall be
15 \$525.

16 (2) For each appeal from the granting or denial of a building demolition, or other
17 permit (other than residential hotel conversion) the fee shall be \$175.

18 (3) For each appeal from the imposition of a penalty only the fee shall be \$300.

19 (c) Police Department and Entertainment Commission.

20 (1) For each appeal from the denial or granting of a permit or license issued by the
21 Police Department, ~~or~~ Entertainment Commission, or the Director of the Entertainment
22 Commission to the owner or operator of a business the fee shall be \$375; for each such
23 permit or license issued to an individual employed by or working under contract to a business,
24 the fee shall be \$150.

1 (2) For each appeal from the revocation or suspension of a permit or license by
2 the Police Department, ~~or Entertainment Commission,~~ or the Director of the Entertainment
3 Commission the fee shall be \$375 for an entity or individual.

4 (d) Department of Public Works. For each appeal from the decision of the Director of
5 the Department of Public Works concerning street tree removal by a City agency,
6 commission, or department the fee shall be \$100.

7 (e) For each appeal from any other order or decision the fee shall be \$300.

8 (f) For requests for rehearing under Section 16 of this Article the fee shall be \$150.

9 (g) For requests for jurisdiction the fee shall be \$150.

10 (h) An exemption from paying the full fee specified in Subsections (a), (b), (c), (d), (e),
11 (f), and (g) herein may be granted upon the filing under penalty of perjury of a declaration of
12 indigency on the form provided and approved by the Board. All agencies of the City and
13 County of San Francisco are exempted from these fees.

14 (i) Additional Requirements.

15 (1) Notice of appeal shall be in such form as may be provided by the rules of the
16 Board of Appeals.

17 (2) On the filing of any appeal, the Board of Appeals shall notify in writing the
18 department, board, commission, officer or other person from whose action the appeal is taken
19 of such appeal. On the filing of any appeal concerning a structural addition to an existing
20 building, the Board of Appeals shall additionally notify in writing the property owners of
21 buildings immediately adjacent to the subject building.

22 (3) The Board of Appeals shall fix the time and place of hearing, which shall be
23 not less than 10 nor more than 45 days after the filing of said appeal, and shall act thereon not
24 later than 60 days after such filing or a reasonable time thereafter. In the case of a ~~fixed~~
25 ~~pedestal newsrack permit, a place of entertainment permit, a limited live performance permit,~~

1 ~~or an extended-hours premises permit~~ issued by the Entertainment Commission or its
2 Director, the Board of Appeals shall set the hearing not less than 15 days after the filing of
3 said appeal, shall act thereon not more than 30 days after such filing, and shall not entertain a
4 motion for rehearing.

5 (4) With respect to any decision of the Board of Appeals related to any "dwelling"
6 in which "protected class members" are likely to reside (each as defined in Administrative
7 Code Chapter 87), the Board of Appeals shall comply with the requirements of Administrative
8 Code Chapter 87 which requires, among other things, that the Board of Appeals not base any
9 decision regarding the development of such units on information which may be discriminatory
10 to any member of a "protected class."

11 (5) Pending decision by the Board of Appeals, the action of such department,
12 board, commission, officer or other person from which an appeal is taken, shall be
13 suspended, except for (1) actions of revocation or suspension of permit by the Director of
14 Public Health when determined by the Director to be an extreme public health hazard and (2)
15 actions by the Zoning Administrator or Director of the Department of Building Inspection
16 stopping work under or suspending an issued permit, and (3) actions of suspension or
17 revocation by the Entertainment Commission or the Director of the Entertainment Commission
18 ~~of a Place of Entertainment, Limited Live Performance, One Time Event, or Extended Hours~~
19 ~~Premises permit~~ when the suspending or revoking authority determines that ongoing
20 operation of the activity during the appeal to the Board of Appeals would pose a serious threat
21 to public safety.

22
23 Section 4. This ordinance does not affect the validity of existing permits for mechanical
24 amusement devices. If an existing Permittee is no longer obligated to maintain a permit under
25 the requirements of this ordinance, the Permittee shall not be required to renew his or her

1 license under Section 1036.14 of the Police Code and the permit shall expire by operation of
2 law. This ordinance shall not in any manner be construed as a waiver of any license or permit
3 fees or any other fees or money due and unpaid under the provisions of any section of the
4 Municipal Code or any City ordinance. This ordinance does not give rise to any claim for a
5 refund of any license or permit fees or any other fees already paid, even if a Permittee is no
6 longer required to maintain a permit under this ordinance as a result of the change in law.

7

8 Section 5. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12

13 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19

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

22 By: _____
23 FRANCESCA GESSNER
24 Deputy City Attorney

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