

File No. 100674

Committee Item No. \_\_\_\_\_  
Board Item No. 21

**COMMITTEE/BOARD OF SUPERVISORS**  
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Board of Supervisors Meeting

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AOW 7/27/10

Completed by: \_\_\_\_\_

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1 [Expanding the Entertainment Commission's power to revoke permits.]

2  
3 Ordinance amending Sections 1060.20.4 and 1070.20 of the San Francisco Police Code  
4 to expand the grounds for revocation of Place of Entertainment permits, Extended-  
5 Hours Premises permits, and One Time Event permits to include (1) public safety  
6 considerations, where operation of the permit poses a substantial risk of physical harm  
7 or injury to individuals, and (2) where the permittee's persistent action or inaction  
8 causes serious and continuing problems that amount to a public nuisance.

9 NOTE: Additions are single-underline italics Times New Roman;  
10 deletions are ~~strike-through italics Times New Roman~~.  
11 Board amendment additions are double-underlined;  
12 Board amendment deletions are ~~strikethrough-normal~~.

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

14 Section 1. The San Francisco Police Code is hereby amended by amending Section  
15 1060.20.4, to read as follows:

16 **SEC. 1060.20.4. REVOCATION OF A PERMIT.**

17 (a) GROUNDS FOR REVOCATION. The Entertainment Commission may revoke any  
18 Place of Entertainment or One Time Event Permit issued under this Article if it determines  
19 after a public hearing that any of the following conditions exist:

- 20 (1) The Permittee has knowingly made any false, misleading, or fraudulent statement
- 21 of material fact or has knowingly omitted a material fact in the application for a permit; ~~or~~
- 22 (2) The Permittee has failed to pay any fee or charge required under this Article; ~~or~~
- 23 (3) The Permittee has failed to surrender the permit as required by Section 1060.24(b).
- 24 (4) One or more of the grounds for suspension enumerated in Section 1060.20.1(a) applies, and
- 25 considerations of public safety warrant revocation of the permit. For purposes of this provision,

1 "considerations of public safety" means a substantial risk of physical harm or injury to individuals. In  
2 determining whether considerations of public safety warrant revocation, the Commission shall evaluate  
3 the likelihood and seriousness of the threat to public safety that continued operation of the Business  
4 under the permit presents. In making its determination, the Commission shall consider the following  
5 factors: (i) the history of violence and other public safety problems associated with the operation of the  
6 Business; (ii) a pattern of the Permittee's noncompliance with Security Plan requirements imposed by  
7 law or as a condition of the permit; (iii) the frequency of the Permittee's violations of other provisions  
8 of law or permit conditions, which violations have contributed to violence or other public safety  
9 problems associated with the operation of the Business; (iv) the degree to which the Permittee's action  
10 or inaction has been responsible for violence and other public safety problems associated with the  
11 operation of the Business; and (v) the degree to which the City, through the Entertainment Commission,  
12 Director, Police Department, or otherwise, has notified the Permittee of violence or other public safety  
13 problems associated with the operation of the Business and/or of the need to take action to reduce such  
14 problems, and the promptness and efficacy of the Permittee's responses.

15 (5) One or more of the grounds for suspension enumerated in Section 1060.20.1(a) applies, and  
16 revocation is warranted because the problems that those grounds have created have been serious and  
17 continuing, and the action or inaction of the Permittee contributing to those problems has been  
18 persistent; provided, that the circumstances warranting revocation under this provision would  
19 constitute a public nuisance within the meaning of Section 38403480 of the California Civil Code.

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

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

1 Article, except that, notwithstanding any other provision of law, including but not limited to Section  
2 1060.5(f), revocation under Section 1060.20.4(a)(4) or Section 1060.20.4(a)(5) shall render the  
3 Permittee ineligible to apply for a new permit under this Article for one year from the date of  
4 revocation.

5 (d) When considering whether to revoke a permit under this Article, the Commission  
6 and the Director shall consider any previous denial of a permit application or previous  
7 suspension or revocation of a permit, under this Article or Article 15.2, for the same permit  
8 applicant or Permittee when the circumstances warranting the previous action are relevant to  
9 the current determination.

10  
11 Section 2. The San Francisco Police Code is hereby amended by amending Section  
12 1070.20, to read as follows:

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

14 (a) GROUNDS FOR REVOCATION. The Entertainment Commission may revoke any  
15 permit issued under this Article if it determines after a public hearing that any of the following  
16 conditions exist:

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

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

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

21 (4) One or more of the grounds for suspension enumerated in Section 1070.17.1(a) applies, and  
22 considerations of public safety warrant revocation of the permit. For purposes of this provision,  
23 "considerations of public safety" means a substantial risk of physical harm or injury to individuals. In  
24 determining whether considerations of public safety warrant revocation, the Commission shall evaluate  
25 the likelihood and seriousness of the threat to public safety that continued operation of the Business

1 under the permit presents. In making its determination, the Commission shall consider the following  
2 factors: (i) the history of violence and other public safety problems associated with the operation of the  
3 Business; (ii) a pattern of the Permittee's noncompliance with Security Plan requirements imposed by  
4 law or as a condition of the permit; (iii) the frequency of the Permittee's violations of other provisions  
5 of law or permit conditions, which violations have contributed to violence or other public safety  
6 problems associated with the operation of the Business; (iv) the degree to which the Permittee's action  
7 or inaction has been responsible for violence and other public safety problems associated with the  
8 operation of the Business; and (v) the degree to which the City, through the Entertainment Commission,  
9 Director, Police Department, or otherwise, has notified the Permittee of violence or other public safety  
10 problems associated with the operation of the Business and/or of the need to take action to reduce such  
11 problems, and the promptness and efficacy of the Permittee's responses.

12 (5) One or more of the grounds for suspension enumerated in Section 1070.17.1(a) applies, and  
13 revocation is warranted because the problems that those grounds have created have been serious and  
14 continuing, and the action or inaction of the Permittee contributing to those problems has been  
15 persistent; provided, that the circumstances warranting revocation under this provision would  
16 constitute a public nuisance within the meaning of Section 38403480 of the California Civil Code.

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

21 (c) APPLICATION FOR PERMIT AFTER REVOCATION. The revocation of a permit  
22 under this Article shall not preclude the Permittee from applying for a new permit under this  
23 Article, except that, notwithstanding any other provision of law, including but not limited to Section  
24 1060.5(f), revocation under Section 1070.20(a)(4) or Section 1070.20.(a)(5) shall render the Permittee  
25 ineligible to apply for a new permit under this Article for one year from the date of revocation.

1 (d) When considering whether to revoke a permit under this Article, the Commission  
2 and the Director shall consider any previous denial of a permit application or previous  
3 suspension or revocation of a permit, under this Article or Article 15.1, for the same permit  
4 applicant or Permittee when the circumstances warranting the previous action are relevant to  
5 the current determination.  
6

7 Section 3. Severability. In the event that a court of competent jurisdiction holds that  
8 federal or state law, rule, or regulation invalidates any clause, sentence, paragraph, or section  
9 of this Ordinance or the application thereof to any person or circumstances, it is the intent of  
10 the Board of Supervisors that the court sever such clause, sentence, paragraph, or section so  
11 that the remainder of this Ordinance shall remain in effect.  
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13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:   
16 PAUL ZAREFSKY  
17 Deputy City Attorney  
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