

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: April 25, 2017

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 170443

Ordinance amending the Police Code to recodify and revamp permit procedures for outdoor amplified sound by providing for distinct permits for Fixed Place Outdoor Amplified Sound, One Time Outdoor Amplified Sound, and Sound Trucks, and establishing fees for those permits, while also providing amplified sound requirements for Place of Entertainment and Limited Live Performance permits; to impose a fee for Sound Monitoring; to increase the fee for One Time Event permits; to declare operation of a business without these various permits (when required) to be a public nuisance; and to strengthen penalties for permit-related violations and noise violations; and making environmental findings.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

1 [Police Code - Outdoor Amplified Sound Permits]

2
3 **Ordinance amending the Police Code to recodify and revamp permit procedures for**
4 **outdoor amplified sound by providing for distinct permits for Fixed Place Outdoor**
5 **Amplified Sound, One Time Outdoor Amplified Sound, and Sound Trucks, and**
6 **establishing fees for those permits, while also providing amplified sound requirements**
7 **for Place of Entertainment and Limited Live Performance permits; to impose a fee for**
8 **Sound Monitoring; to increase the fee for One Time Event permits; to declare operation**
9 **of a business without these various permits (when required) to be a public nuisance;**
10 **and to strengthen penalties for permit-related violations and noise violations; and**
11 **making environmental findings.**

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

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

20 Section 1. The Planning Department has determined that the actions contemplated in
21 this ordinance comply with the California Environmental Quality Act (California Public
22 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
23 Board of Supervisors in File No. ____ and is incorporated herein by reference.

24 Section 2. This ordinance amends Article 1 of the Police Code by revising Sections
25 2.26 and 2.27, below. The fees for the new permits and for Sound Monitoring added to

Section 2.26 and the new fee amount for the One Time Event permit in Section 2.26 are current for fiscal year 2017-18, and shall be adjusted thereafter pursuant to Section 2.31. The fee for the Fixed Place Outdoor Amplified Sound license contained in Section 2.27 is current for fiscal year 2017-18, and shall be adjusted thereafter pursuant to Section 2.31.

Sections 2.26 and 2.27 are hereby amended, as follows:

SEC. 2.26. SCHEDULE OF PERMITS AND SERVICES; FILING AND SERVICE FEES.

The following filing *and service* fees, payable in advance to the City and County of San Francisco, are required when submitting applications for *the specified* permits to the Police Department or Entertainment Commission *or when paying for the specified services*:

TYPE OF PERMIT	FILING FEE
* * * *	* * * *
Extended Hours Permit	1,500
Amendment to Permit	660
<i>Fixed Place Outdoor Amplified Sound</i>	<u>1,700</u>
<i>Amendment to Permit</i>	<u>816</u>
Fortuneteller	67
* * * *	* * * *
Limited Live Performance	385
Amendment to Permit	129
<i>Loudspeaker</i>	<u>416</u>
<i>Vehicle</i>	<u>416</u>
* * * *	* * * *

1	Off-Heliport Landing Site	667
2	One Time Event	255 <u>450</u>
3	<i>One Time Outdoor Amplified Sound (up to 4 hours)</i>	<u>435</u>
4	<i>Each additional hour</i>	<u>75</u>
5	* * * *	
6	Shooting Gallery	899
7	<i>Sound Monitoring Fee (hourly)</i>	<u>59</u>
8	<i>Sound Truck (per 12-hour day)</i>	<u>435</u>
9	Tow Car Driver	579
10		
11	* * * *	

12

13 **SEC. 2.27. SCHEDULE OF LICENSE FEES FOR PERMITS ISSUED BY THE**

14 **POLICE DEPARTMENT OR ENTERTAINMENT COMMISSION.**

15 The following license fees are payable to the Tax Collector for permits issued by the

16 Police Department or Entertainment Commission and, when applicable, for their renewal:

17 Note: All license fees are at an annual rate unless otherwise indicated.

18

19	TYPE OF PERMIT	LICENSE FEE
20	* * * *	
21	Extended Hours Permit	531
22	<i>Fixed Place Outdoor Amplified Sound</i>	<u>567</u>
23	General Soliciting Agent	129.50
24	<i>Itinerant Show, Each Concession</i>	<i>62 per day</i>

25

1	Licensed Tour Guide	
2	Owner - Buses, per vehicle	972
3	Owner - Other Motorized Vehicles, per vehicle	195.50
5	Owner - Bicycle/Segway/Other Mechanisms, per mechanism	195.50
7	Owner - Walking	195.50
8	Employee	0
9	Limited Live Performance	157
10	<i>Loudspeaker</i>	<i>170</i>

11 * * * *

12
13 Section 3. Article 1 of the Police Code is hereby amended by deleting Sections 43,
14 43.1, 43.2, 44, 45, 46, 47, 47.1, 47.2, 48, and 50, and revising Section 49, to read as follows:

15 **~~SEC. 43. PERMITS FOR USE OF LOUDSPEAKER OR SOUND AMPLIFYING~~**
16 **~~EQUIPMENT OUTSIDE BUILDINGS OR OUT OF DOORS.~~**

17 ~~(a) Use of Loudspeakers. Upon application made as herein provided and subject to the~~
18 ~~provisions of Sections 47.2 and 49 of this Code, the Entertainment Commission, at its discretion, may~~
19 ~~issue a permit for use of a loudspeaker or sound amplifier not attached to sound trucks to project sound~~
20 ~~outside of any building or at any location out of doors in any part of said City and County at such times~~
21 ~~and upon such days as it may designate, for any lawful purpose.~~

22 ~~(b) Information Required for Permit. Application to the Entertainment Commission for a permit~~
23 ~~to use a loudspeaker or sound amplifier as herein provided shall be made on a form available at the~~
24 ~~office of the Entertainment Commission and shall contain the following information:~~

- 1 — (1) ~~The name and address of applicant;~~
2 — (2) ~~The purpose for which sound amplification will be used;~~
3 — (3) ~~Location at which loudspeaker or amplifier will be placed;~~
4 — (4) ~~Hours during which sound will be amplified; and~~
5 — (5) ~~Dates upon which sound amplification will be made.~~

6 **~~SEC. 43.1. FILING FEE.~~**

7 ~~(a) Filing Fee. Every person desiring a permit to use a loudspeaker or sound amplifier~~
8 ~~(“Loudspeaker Permit”) pursuant to Section 43 of this Article 1 shall file an application with the~~
9 ~~Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a~~
10 ~~filing fee specified in Section 2.26 of this Article; provided, however, that no filing fee shall be required~~
11 ~~if the Loudspeaker Permit application is filed by an entity that has received City funds specifically for~~
12 ~~the event that is the subject of the permit application.~~

13 ~~(b) Fee Waivers.~~

14 — (1) ~~Individuals. The Director of the Entertainment Commission may grant an~~
15 ~~individual applicant an exemption from paying the filing fee for a Loudspeaker Permit set forth in~~
16 ~~Section 2.26 of this Article upon the applicant’s filing under penalty of perjury a declaration of~~
17 ~~financial hardship on the form provided by the Entertainment Commission. The form shall use the~~
18 ~~indigency standards set out in California Government Code Section 68632, as amended from time to~~
19 ~~time. The applicant shall submit the financial hardship declaration concurrently with the permit~~
20 ~~application.~~

21 — (2) ~~Nonprofit and Neighborhood Organizations. The Director of the Entertainment~~
22 ~~Commission may grant a nonprofit organization, neighborhood association, or similar community-~~
23 ~~based group an exemption from paying the filing fee for a Loudspeaker Permit set forth in Section 2.26~~
24 ~~of this Article for an event if (A) the proposed event is free and open to the public, and (B) the filing fee~~
25 ~~is more than 25% of the total projected budget for the event.~~

1 **~~SEC. 43.2. LICENSE FEE.~~**

2 ~~Upon granting the loudspeaker permit, the Entertainment Commission shall forward the permit~~
3 ~~to the Tax Collector, if the permit authorizes sound amplification for seven or more days in a calendar~~
4 ~~year, who shall issue a license upon payment by the applicant of the license fee. The license fee shall be~~
5 ~~annually paid on or before March 31, in accordance with the provisions of Section 76.1 of the Business~~
6 ~~and Tax Regulations Code.*~~

7 **~~SEC. 44. "PERSON" DEFINED.~~**

8 ~~The word "person" as used in Sections 43 to 49, inclusive, of this Article shall include and mean~~
9 ~~any person, firm, association or corporation.~~

10 **~~SEC. 45. EXCEPTIONS RADIO, TELEVISION RECEIVING SETS, PEDESTRIAN~~**
11 **~~OPERATED BULLHORNS.~~**

12 ~~The provisions of Sections 43 to 48, inclusive, of this Article shall not apply (a) to radio or~~
13 ~~television receiving sets permanently installed in private automobiles to receive programs broadcast~~
14 ~~from regularly licensed and established radio stations or to other mechanical sound or voice-~~
15 ~~reproducing devices for the pleasure and entertainment of the occupants of such automobiles; (b) to~~
16 ~~radio or television receiving sets installed in any dwelling house to receive programs broadcast from~~
17 ~~regularly licensed and established radio stations for the pleasure and entertainment of the occupants of~~
18 ~~such dwelling houses; (c) to radio or television receiving sets established or maintained in stores~~
19 ~~indoors to demonstrate radio or television sets carried for sale or demonstration; or (d) pedestrian~~
20 ~~operated bullhorns, not exceeding 10 watts, E.I.A.; provided, however, that the provisions of Section 49~~
21 ~~hereof shall be applicable to all such sets or devices.~~

22 **~~SEC. 46. DEFINITIONS.~~**

23 ~~(a) "Sound Truck." The words "sound truck" as used in this Code shall mean any motor~~
24 ~~vehicle, horse drawn vehicle or other means of conveyance, having mounted thereon, attached thereto~~

1 ~~or carrying any sound amplifying equipment, except that an "Unenclosed Tour Bus" as defined in~~
2 ~~Section 2913 of this Code shall not be considered a "sound truck" for purposes of this Article.~~

3 ~~(b) "Sound Amplifying Equipment." The words "sound amplifying equipment" as used in this~~
4 ~~Code, shall mean any machine or device for the reproduction or amplification of the human voice,~~
5 ~~music or other sound. "Sound amplifying equipment" shall not be construed as including standard~~
6 ~~automobile radios, television receiving sets or mobile radio telephone equipment or other mechanical~~
7 ~~sound or voice-reproducing devices when used and heard only by occupants of the vehicle in which~~
8 ~~installed, or warning devices on authorized emergency vehicles or horns or other warning devices on~~
9 ~~other vehicles used only for traffic safety purposes.~~

10 ~~**SEC. 47. USE OF SOUND TRUCKS, REGISTRATION AND PERMIT REQUIRED.**~~

11 ~~It shall be unlawful for any person to use or cause to be used in the City and County of San~~
12 ~~Francisco any sound truck without first having obtained from the Entertainment Commission a certified~~
13 ~~copy of the endorsed registration statement which shall constitute a permit to use and operate such~~
14 ~~equipment. This certified copy shall be placed in a conspicuous and uniform place on each sound truck~~
15 ~~for which the permit is obtained, and shall be promptly displayed and shown to any San Francisco~~
16 ~~police officer upon request.~~

17 ~~(a) Each person desiring to use, or cause to be used, any sound truck within the City and~~
18 ~~County of San Francisco must file with the Entertainment Commission thereof a written registration~~
19 ~~statement in duplicate, which shall state the following:~~

20 ~~—(1) Name and home address of the applicant;~~

21 ~~—(2) Address of place of business of applicant;~~

22 ~~—(3) Name and address of person having direct charge of the sound truck;~~

23 ~~—(4) The purpose for which the sound truck will be used;~~

24 ~~—(5) A general statement as to the section or sections of the city in which the sound truck~~
25 ~~will be used;~~

- 1 — ~~(6) The proposed hours of operation of the sound truck;~~
2 — ~~(7) The number of days of proposed operation of the sound truck;~~
3 — ~~(8) The general description of the sound amplifying equipment which is to be used;~~
4 — ~~(9) The maximum sound producing power of the sound amplifying equipment to be used in~~
5 ~~or on the sound truck, the voltage used by said equipment and the rated power output in watts.~~
6 — ~~(b) A filing fee shall be charged for each original written registration statement filed with the~~
7 ~~Entertainment Commission.~~

8 **~~SEC. 47.1. REGISTRATION STATEMENT AMENDMENT.~~**

9 ~~Any person using, or causing to be used, a sound truck within the City and County of San~~
10 ~~Francisco shall amend the registration statement filed pursuant to Section 47(a) within 48 hours after~~
11 ~~any change in the information therein furnished.~~

12 **~~SEC. 47.2. REGULATIONS FOR USE.~~**

13 ~~Use of any sound amplifying equipment, whether truck mounted or otherwise, within the City~~
14 ~~and County of San Francisco shall be subject to the following regulations:~~

- 15 — ~~(1) The only sounds permitted are music or human speech;~~
16 — ~~(2) Hours of operation permitted shall be between 9:00 a.m. and 10:00 p.m.; operation~~
17 ~~after 10:00 p.m. is permitted only at the location of a public event or affair of general public interest or~~
18 ~~as otherwise permitted by the Entertainment Commission;~~
19 — ~~(3) Except as permitted by the Entertainment Commission sound shall not be issued within~~
20 ~~450 feet of hospitals, schools, churches, courthouses, public libraries or mortuaries;~~
21 — ~~(4) No sound truck with its amplifying device in operation shall traverse any one block in~~
22 ~~the City and County more than four times in any one calendar day;~~
23 — ~~(5) Amplified human speech and music shall not be unreasonably loud, raucous, jarring or~~
24 ~~disturbing to persons of normal sensitiveness within the area of audibility, nor louder than permitted in~~
25 ~~Subsections (6) and (7) hereof;~~

1 ~~—(6) When the sound truck is in motion, the volume of sound shall be controlled so that it~~
2 ~~will not be audible for a distance in excess of 450 feet from its source; provided, however, that when~~
3 ~~the sound truck is stopped by traffic, the said sound amplifying equipment shall not be operated for~~
4 ~~longer than one minute at such stop;~~

5 ~~—(7) Except as permitted by the Entertainment Commission for public gatherings, in all~~
6 ~~eases where sound amplifying equipment remains at one location or when the sound truck is not in~~
7 ~~motion, the volume of sound shall be controlled so that it will not be audible for a distance in excess of~~
8 ~~250 feet from the periphery of the attendant audience;~~

9 ~~—(8) No sound amplifying equipment shall be operated unless the axis of the center of any~~
10 ~~sound reproducing equipment used shall be parallel to the direction of travel of the sound truck;~~
11 ~~provided, however, that any sound reproducing equipment may be so placed upon said sound truck as~~
12 ~~to not vary more than 15° either side of the axis of the center of the direction of travel and, provided~~
13 ~~further, that radial, nondirectional type of loudspeakers may be used on said sound trucks either alone~~
14 ~~or in conjunction with sound reproducing equipment placed within 15 of the center line of the direction~~
15 ~~of travel.~~

16 **~~SEC. 48. LICENSE REQUIRED.~~**

17 ~~It shall be unlawful for any person to use or cause to be used any sound truck in the City and~~
18 ~~County of San Francisco for any purpose before an application has been filed with the Entertainment~~
19 ~~Commission as provided in Section 47(a) of this Code; the applicant has expressly assumed~~
20 ~~responsibility for performance of all matters and observance of all restrictions contained in Section~~
21 ~~47.2 of this Code; the Entertainment Commission has approved the application and issued a permit at~~
22 ~~its discretion, as provided in Section 652 et seq. of this Code; and a license has been obtained from the~~
23 ~~Tax Collector as therein provided. The terms and conditions of Section 682 et seq. of this Code apply~~
24 ~~with full force and effect to the licensing of all sound trucks used for any purpose within the City and~~
25 ~~County of San Francisco.~~

1 **SEC. 49. UNNECESSARY NOISE,; AUTHORIZED EMERGENCY VEHICLES.**

2 (a) Except as provided in *Sections 43, 45, 46, 47.1, 47.2, and 48 Article 15.1* of this Code,
3 and to amplifying equipment used in authorized emergency vehicles as defined in the
4 California Vehicle Code, it shall be unlawful for any person to use, operate, maintain, or permit
5 to be played, used, or operated any radio or television receiving set, musical instrument,
6 phonograph, juke box, broadcasting equipment, or other machine or device for the producing,
7 reproducing, or amplification of sound or human voice in such manner as to produce raucous
8 noises or in such manner so as to disturb the peace, quiet, and comfort of persons in the
9 neighborhood or with volume louder than is necessary for convenient hearing for the person
10 or persons for whom said machine, instrument, or device is operated.

11 (b) The operation of any such set, instrument, phonograph, juke box, broadcasting
12 equipment, machine, or device between the hours of 10:00 p.m. and 7:00 a.m., in such a
13 manner as to be plainly audible at a distance of 50 feet from the property line of the property
14 from whence the sound is emitted, shall be prima facie evidence of a violation of this Section
15 49.

16 (c) The operation of any such set, instrument, phonograph, juke box, broadcasting
17 equipment, machine, or device at any time in such a manner as to cause a noise level in
18 excess of the standards set forth in Article 29 of this Code shall be prima facie evidence of a
19 violation of this Section 49.

20 (d) Any person who violates this Section 49 shall be deemed guilty of *an infraction or a*
21 *misdemeanor* and subject to the criminal penalties specified in Section 1060.25(a) *of this Code*
22 as well as the civil penalties specified in Section 1060.25(c).

23 * * * *

24 ~~**SEC. 50. SEVERABILITY.**~~

1 (g) It is the intention of the Board of Supervisors that each separate ~~section,~~ subsection
2 ~~or subdivision,~~ sentence, clause, or phrase of this Sections 49 43 to 49, inclusive, of this Code
3 shall be deemed independent of each other, and ~~it is the further intention of the Board of~~
4 ~~Supervisors~~ that if any ~~section,~~ subsection ~~or subdivision,~~ sentence, clause, or phrase be
5 declared invalid or unconstitutional, all other remaining portions thereof shall remain valid and
6 enforceable.

7
8 Section 4. Article 15.1 of the Police Code is hereby amended by revising Sections
9 1060, 1060.1, 1060.1-1 (renumbered as 1060.1.1), 1060.2, 1060.3, 1060.3.1, 1060.5,
10 1060.5.1, 1060.13, 1060.15, 1060.19, 1060.24, 1060.24.1, 1060.25, and 1060.29, and adding
11 Sections 1060.2.2, 1060.3.2, 1060.5.2, 1060.16, 1060.25.1, 1060.27, and 1060.29.2, to read
12 as follows:

13
14 **SEC. 1060. DEFINITIONS.**

15 For the purposes of this Article 15.1, unless otherwise provided in this Article, the
16 following words and phrases shall mean ~~and include~~:

17 "Amplified Sound Equipment." Any machine or device, including but not limited to a
18 loudspeaker, for the reproduction or amplification of the human voice, music, or other sound.
19 Notwithstanding the foregoing sentence, Amplified Sound Equipment shall not include: (a) warning
20 devices, such as but not limited to sirens, on authorized emergency vehicles, or warning devices, such
21 as but not limited to horns, on other vehicles used only for traffic safety purposes; (b) radio or
22 television sets that are (1) permanently installed in motor vehicle to receive programs broadcast from
23 regularly licensed and established radio or television stations, or (2) installed in any dwelling house to
24 receive programs broadcast from regularly licensed and established radio or television stations for the
25 pleasure and entertainment of the occupants of such dwelling houses, or (3) established or maintained

1 in stores indoors to demonstrate radio or television sets carried for sale or demonstration; (c) other
2 mechanical sound or voice-reproducing devices used for the pleasure and entertainment of the
3 occupants of private motor vehicle, or (d) pedestrian operated bullhorns, not exceeding 10 watts.
4 E.I.A.; provided, however, that the provisions of Section 49 of this Code shall be applicable to all items
5 encompassed in exceptions (a)-(d).

6 ~~(a)~~ "Any Sidewalk Abutting the Premises." The sidewalk not more than 50 feet from the
7 premises of the Business that is located between the premises and a public street. For
8 purposes of this definition, "premises" includes any immediately adjacent area that is owned,
9 leased, or rented by the permit applicant or Permittee.

10 ~~(b)~~ "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious,
11 benevolent, or other nonprofit organization for mutual social, mental, political, or civic welfare,
12 to which admission is limited to members and guests if the revenue accruing therefrom is
13 used exclusively for the benevolent purposes of said organization or agency, and if the
14 organization or agency is exempt from taxation under the Internal Revenue laws of the United
15 States as a bona fide fraternal, charitable, religious, benevolent, or nonprofit organization.

16 ~~(c)~~ "Business." The enterprise for which a permit is sought or has been issued under
17 this Article, whether operated on a for-profit or not-for-profit basis.

18 ~~(d)~~ "Conduct that Constitutes a Nuisance." Any conduct that would constitute a
19 violation of the following laws: assault and battery (Cal. Penal Code § 240, 242, 245); sexual
20 battery (Cal. Penal Code § 243.4); discharging firearm (Cal. Penal Code § 246, 246.3);
21 unlawful weapons (Cal. Penal Code § 12020; S.F. Police Code § 1291); disturbing the peace
22 (Cal. Penal Code § 415, 416, 417); unlawful threats (Cal. Penal Code § 422); obstruction of
23 pedestrian or vehicle right-of-way (Cal. Penal Code § 370); gambling (Cal. Penal Code §§
24 330, 337a); rape (Cal. Penal Code § 261); statutory rape (Cal. Penal Code § 261.5);
25 prostitution and related offenses (Cal. Penal Code §§ 266, 266a, 266e, 266h, 266i, 315, 316,

1 647(b)); sex crimes for which registration is required under the Sex Offender Registration Act
2 (Cal. Penal Code § 290); felony sexual assault loitering for lewd or lascivious purposes (Cal.
3 Penal Code § 647(d)); loitering on private property without lawful business (Cal. Penal Code §
4 647(h)); identify theft (Cal. Penal Code § 530.5); a violent felony warranting enhancement of a
5 prison term (Cal. Penal Code § 667.5); criminal gang activity (Cal. Penal Code § 186.22); drug
6 offenses (Cal. Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379,
7 11378.5, 11379.5); violation of Alcohol Beverage Control laws (Cal. Business & Professions
8 Code §§ 23300, 25602, 25631, 25657, 25658); public urination or defecation (San Francisco
9 Police Code § 153); accumulation of filth (Cal. Health & Safety Code § 17920.3(j)); or
10 excessive noise emissions (San Francisco Police Code Section 49 or Article 29).

11 ~~(e)~~ "Corrective Action." Action which includes, but is not limited to, the following:

12 ~~(a1)~~ Requesting assistance from the local law enforcement agency in a timely
13 manner regarding the conduct.

14 ~~(b2)~~ Requesting those individuals engaging in Conduct that Constitutes a
15 Nuisance to cease the conduct, or ejecting those Persons from the premises.

16 ~~(c3)~~ Revising the Security Plan, subject to approval by the Entertainment
17 Commission or the Director as provided under this Article.

18 ~~(f)~~ "Director." The Executive Director of the Entertainment Commission or individual
19 designated by the Director to act on his or her behalf.

20 ~~(g)~~ "Entertainment." Any of the following, except when conducted in a ~~p~~Private
21 ~~R~~esidence:

22 ~~(a1)~~ Any act, play, review, pantomime, scene, song, dance act, song and
23 dance act, or poetry recitation, conducted in or upon any premises to which patrons or
24 members are admitted.

25

1 (b2) The playing or use of any instrument capable of producing or used to
2 produce musical or percussion sounds, including but not limited to, reed, brass, percussion, or
3 string-like instruments, or karaoke, or recorded music presented by a live disc jockey on the
4 premises.

5 (c3) A fashion or style show.

6 (d4) The act of any female entertainer, while visible to any customer, who
7 exposes the breast or employs any device or covering which is intended to simulate the
8 breast, or wears any type of clothing so that the breast may be observed.

9 "Fixed Place Outdoor Amplified Sound Locale." A Business that uses Amplified Sound
10 Equipment, not attached to a Sound Truck, at any location out of doors in the City for more than a total
11 of 12 days, whether consecutive or non-consecutive, per 12-month period, and at which Entertainment
12 is not furnished or does not occur; for example, playing recorded music on Any Sidewalk Abutting the
13 Premises, patio, courtyard, plaza, or other outdoor space that is under the control of the Business or
14 for which the Business has obtained a permit to use from the City. This definition shall not include
15 property that is a Private Residence.

16 "Fixed Place Outdoor Amplified Sound Permit." A permit allowing a Fixed Place Amplified
17 Sound Locale to use Amplified Sound Equipment outdoors.

18 "Limited Live Performance Permit." A permit allowing a Limited Live Performance Locale to
19 present Live Performances.

20 "Limited Live Performance Locale." A locale with all the following features:

21 (a) The presentation of Live Performances is a secondary purpose of the locale rather
22 than its primary purpose.

23 (b) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar space,
24 enclosed by surrounding buildings, with or without open means of public ingress and egress, with an
25 area in which Live Performances are presented that is no greater than 200 square feet. For purposes of

1 this provision, "outdoor plaza, courtyard, or similar space" also shall include, regardless of the square
2 footage of the Live Performance area, (1) any Plaza as identified in Administrative Code Chapter 94 or
3 (2) any People Place as identified in Administrative Code Chapter 94A.

4 (c) Live Performances presented at the locale conclude by 10 p.m., except as otherwise
5 provided in Section 1060.38.1.

6 (d) The locale is not a Private Residence.

7 (e) Patrons or members are admitted to the locale, which serves food, beverages, or
8 food and beverages, including but not limited to alcoholic beverages, for consumption on the premises,
9 except this requirement shall not apply to a Plaza as identified in Administrative Code Chapter 94 or a
10 People Place as identified in Administrative Code Chapter 94A.

11 "Live Performance." Any act, play, review, pantomime, scene, song, dance act, song and dance
12 act, poetry recitation, fashion or style show, recorded music presented by a live disc jockey on the
13 premises, or the playing or use of any instrument capable of producing or used to produce musical or
14 percussion sounds, including but not limited to, reed, brass, percussion, or string-like instruments.

15 ~~(f)~~ "Manager." The individual authorized by the Permittee to exercise discretionary
16 power to organize, direct, carry out or control the operations of the Business.

17 "One Time Event." An indoor event, or outdoor event such as a concert, parade, fair, festival,
18 athletic event, or block party, that is organized for a group of people, (a) at which Entertainment is
19 furnished or occurs, and (b) which takes place at any location in the City that is not a Private
20 Residence.

21 "One Time Event Permit." A permit, as further described in Section 1060.29, allowing a
22 Person to conduct a One Time Event on the premises specified in the permit for no longer than one 24-
23 hour period, and that may be issued for the same premises for no more than a total of 12 days, whether
24 consecutive or non-consecutive, in a 12-month period.

1 "One Time Outdoor Amplified Sound." *An outdoor gathering, occurrence, or event at which*
2 *(a) no Entertainment is furnished or occurs, and (b) Amplified Sound Equipment not attached to Sound*
3 *Trucks is used to project sound outside of any building or at any location out of doors in the City that is*
4 *not a Private Residence.*

5 "One Time Outdoor Amplified Sound Permit." *A permit allowing One Time Outdoor Amplified*
6 *Sound on the premises specified in the permit, and that may be issued for the same premises for no*
7 *more than a total of 12 days, whether consecutive or non-consecutive, in a 12-month period.*

8 ~~(i)~~ "Permittee." The Person to whom a permit has been issued under this Article.

9 ~~(j)~~ "Person." Any person, individual, firm, partnership, joint venture, association,
10 social club, fraternal organization, joint stock company, corporation, estate, trust, business
11 trust, receiver, trustee, syndicate, or any other group or combination acting as a unit excepting
12 the United States of America, the State of California, and any political subdivision of either.

13 ~~(k)~~ "Place of Entertainment." Every premises, including outdoor premises, to which
14 patrons or members are admitted which serves food, beverages, or food and beverages,
15 including but not limited to alcoholic beverages, for consumption on the premises and wherein
16 Entertainment ~~as defined in Subsection (g)~~ is furnished or occurs upon the premises.

17 ~~(l)~~ "Private Residence." *A residence that is used solely or primarily to provide housing and*
18 *not rented out to third parties for Entertainment uses.*

19 "Professional Entertainer." *A person who is compensated for his or her performance. This*
20 *definition does not restrict the definition of "Entertainment" in this Section 1060 and is relevant only to*
21 *the extent the term "Professional Entertainer" is used in this Article.*

22 "Sale of the Business" or "Sell the Business." The sale or other transfer of the
23 ownership interest in a Business that results in a Person (who did not already have such a
24 percentage interest) owning 50% or more of the Business, regardless of the form of
25 ownership.

1 ~~(m)~~"Security Guard." A person who has a valid Proprietary Private Security Officer
2 registration document issued by the California Department of Consumer Affairs; or a person
3 who is a Patrol Special Police Officer appointed by the Police Commission or an assistant to a
4 Patrol Special Police Officer and is operating in accordance with rules of the Police
5 Commission governing Patrol Special Police Officers and assistants to Patrol Special Police
6 Officers; or, a person who is a Private Patrol Operator, as defined by California Business and
7 Professions Code Sections 7582.1-7582.2, as may be amended from time to time.

8 ~~(n)~~ "Security Plan." A plan that adequately addresses the safety of persons and
9 property by ~~(a)~~ providing a ratio of one Security Guard to a specific number of individuals as
10 described in the paragraph immediately below ~~(b)~~ securing the sidewalk for a 100-foot radius
11 in all directions around the premises of the Business to prevent injury to persons and/or
12 damage to property, and ~~(c)~~ providing for the orderly dispersal of individuals and traffic from
13 the premises of the Business and within 100 feet of any door that patrons use to enter or exit
14 the premises. The phrase "100 feet" in ~~(c)~~ *of this Subsection (n)* means 100 feet from the door
15 in both directions on the same side of the street as the premises of the Business. The plan
16 shall include sufficient staff with the requisite experience to implement the plan.

17 The Security Plan must provide at least one Security Guard for every 100 individuals
18 anticipated to be present at any one time during Entertainment events on the premises of the
19 Business, with the following two qualifications. There must always be at least one Security
20 Guard for every 100 individuals actually present at any one time during Entertainment events
21 on the premises of the Business. Further, in those areas of the City where a conditional use
22 authorization is required for a late night use, on Thursdays, Fridays, Saturdays, and Sundays
23 from 9:00 p.m. until closing (including early morning hours Friday, Saturday, Sunday, and
24 Monday) the Security Plan must provide at least one Security Guard for every 100 individuals
25

1 authorized by the Occupancy Permit during Entertainment events on the premises of the
2 Business.

3 The definition of Security Plan in this ~~Subs~~Section 1060~~(n)~~ does not limit the discretion
4 of the Entertainment Commission and Director as specified in this Article to impose more
5 stringent requirements for a Security Plan as circumstances warrant.

6 If no Entertainment event is occurring on the premises, the Security Plan does not have
7 to include Security Guards, but the Entertainment Commission retains discretion to impose
8 Security Guard requirements as part of a Security Plan.

9 "Sound Truck." Any motor vehicle or other means of conveyance, having mounted thereon,
10 attached thereto, or carrying any Amplified Sound Equipment, except that an "Unenclosed Tour Bus"
11 as defined in Section 2913 of this Code shall not be considered a Sound Truck for purposes of this
12 Article.

13 "Sound Truck Permit." A permit allowing a Sound Truck to use Amplified Sound Equipment.

14 ~~(e)~~ "Tax Collector." Tax Collector of the City and County of San Francisco.

15 ~~(p)~~ *"Professional Entertainer." A person who is compensated for his or her performance. This*
16 *definition does not restrict the definition of "Entertainment" in Subsection (g) and is relevant only to*
17 *the extent the term "professional entertainer" is used in this Article.*

18 ~~(q)~~ *"Limited Live Performance Permit." A permit allowing a Limited Live Performance Locale*
19 *to present Live Performances.*

20 ~~(r)~~ *"Limited Live Performance Locale." A locale with all the following features:*

21 ~~—— (1) The presentation of Live Performances is a secondary purpose of the locale rather~~
22 ~~than its primary purpose.~~

23 ~~—— (2) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar space,~~
24 ~~enclosed by surrounding buildings, with or without open means of public ingress and egress, with an~~
25 ~~area in which Live Performances are presented that is no greater than 200 square feet. For purposes of~~

1 ~~this Subsection, "outdoor plaza, courtyard, or similar space" also shall include any (A) Plaza as~~
2 ~~identified in Administrative Code Chapter 94, regardless of the square footage of the Live Performance~~
3 ~~area.~~

4 ~~———— (3) Live Performances presented at the locale conclude by 10 p.m., except as otherwise~~
5 ~~provided in Section 1060.38.1.~~

6 ~~———— (4) The locale is not a private residence.~~

7 ~~———— (5) Patrons or members are admitted to the locale, which serves food, beverages, or~~
8 ~~food and beverages, including but not limited to alcoholic beverages, for consumption on the premises.~~

9 ~~(s) "Live Performance." Any act, play, review, pantomime, scene, song, dance act, song and~~
10 ~~dance act, poetry recitation, fashion or style show, recorded music presented by a live disc jockey on~~
11 ~~the premises, or the playing or use of any instrument capable of producing or used to produce musical~~
12 ~~or percussion sounds, including but not limited to, reed, brass, percussion, or string like instruments.~~

13 **SEC. 1060.1. PERMIT REQUIRED.**

14 (a) It shall be unlawful for any Person to own, conduct, operate, or maintain, or to
15 cause or permit to be conducted, operated, or maintained, any Place of Entertainment,
16 Limited Live Performance Locale, ~~or~~ One-Time Event, Fixed Place Outdoor Amplified Sound
17 Locale, One Time Outdoor Amplified Sound, or Sound Truck in the City and County of San
18 Francisco without first having obtained the required permit from the Director or Entertainment
19 Commission. No Person shall operate a Place of Entertainment between 2:00 a.m. and 6:00
20 a.m. without having both a Place of Entertainment Permit and an Extended-Hours Premises
21 Permit.

22 (b) It shall be unlawful for any Person to conduct, operate, or maintain, or cause or
23 permit to be conducted, operated, or maintained, a Place of Entertainment, Limited Live
24 Performance Locale, ~~or~~ One-Time Event, Fixed Place Outdoor Amplified Sound Locale, One Time
25 Outdoor Amplified Sound Event, or Sound Truck for which a permit has been granted (1) after the

1 permit has been revoked or is otherwise invalid or (2) for any period of time during which the
2 permit has been suspended.

3 (c) It shall be unlawful for any Person who is required to surrender a permit upon the
4 sale of a Business as required under Section 1060.24(b) to fail to do so.

5 (d) Any place or premises where a Place of Entertainment Permit, Limited Live
6 Performance Permit, ~~or One-Time Event Permit~~, Fixed Place Outdoor Amplified Sound Permit, or
7 One Time Outdoor Amplified Sound Permit is sought must (1) conform to all existing health,
8 safety, zoning, fire, and other ~~Municipal~~ ordinances of the City and County of San Francisco,
9 and (2) must have a valid permit to operate (formerly referenced in this Article as a public
10 eating place permit) from the Department of Public Health, if applicable. The Entertainment
11 Commission, including the Director in the case of a One-Time Event Permit or One Time
12 Outdoor Amplified Sound Permit, may issue a permit under this Article 15.1 conditional upon the
13 applicant receiving the other required permits.

14 **SEC. 1060.~~1-11.1~~. LICENSE FEES.**

15 Every person granted a Place of Entertainment Permit, ~~or~~ Limited Live Performance
16 Permit, or Fixed Place Outdoor Amplified Sound Permit by the Entertainment Commission ~~under~~
17 ~~this Article~~ shall pay to the Tax Collector an annual license fee on or before March 31, in
18 accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.

19 The amount of the license fee for the 2005-2006 fiscal year shall be as set forth in
20 Section 2.27 of this Code, and such amount shall be adjusted for inflation commencing with
21 the 2006-2007 fiscal year, and annually thereafter, in accordance with Section 2.31 of this
22 Code.

23 **SEC. 1060.2. FILING APPLICATION AND, NOTICE TO OTHER CITY**
24 **DEPARTMENTS FOR PLACE OF ENTERTAINMENT PERMIT, AND DEPARTMENTAL**
25 **REPORTS.**

1 * * * *

2 **SEC. 1060.2.2. FILING APPLICATION AND NOTICE TO OTHER CITY**

3 **DEPARTMENTS FOR FIXED PLACE OUTDOOR AMPLIFIED SOUND PERMITS.**

4 (a) Every Person seeking a Fixed Place Outdoor Amplified Sound Permit or an amendment to
5 such a permit shall file an application with the Entertainment Commission upon a form provided by the
6 Entertainment Commission and shall pay the filing fee prescribed in Section 2.26 of this Code, except
7 as provided in Section 1060.19 of this Article 15.1.

8 (b) The Director shall send the application to the Police Department, the Planning
9 Department, and the Department of Public Health. Those departments shall complete any necessary
10 inspections and report their determinations to the Entertainment Commission within 20 City business
11 days of receiving the application.

12
13 **SEC. 1060.3. APPLICATION FORM FOR PLACE OF ENTERTAINMENT PERMIT.**

14 Except as otherwise provided herein, ~~a~~An application for a Place of Entertainment permit
15 pursuant to the provisions of this Article shall specify the following and be signed under penalty
16 of perjury:

17 * * * *

18 (h) A plan for the Business to operate as a Place of Entertainment, specifying the
19 days and hours of operation, the number of employees and their duties, the number of
20 patrons, a statement certifying that the Business shall comply with the maximum occupancy
21 load for the space as established under the San Francisco Building and Fire Codes, the types
22 or classes of entertainment (in terms of the types of instruments, numbers of performers, and
23 sound levels) to be provided, and the amount of parking, both on and off-site, to be provided.
24 If sound amplification is to be used, the plan shall also include a specific description of the
25 amplification system, and whether the Business proposes to use Amplified Sound Equipment to

1 project sound outside of any building or at any location out of doors. If the plan includes outdoor
2 amplified sound, it shall also include the following information: (1) the location at which Amplified
3 Sound Equipment will be placed out of doors, (2) the hours and dates during which sound will be
4 amplified, (3) a specific description of the amplification system to be used, including the type of sound
5 to be amplified (e.g., speech or music), (4) a statement certifying that the Business shall comply with
6 the maximum noise levels as established under the Police and Health Codes, and (5) a statement
7 whether the activity will take place within 300 feet of a hospital, school, house of worship, courthouse,
8 public library, or mortuary during the normal hours of use of said facilities. Where applicable, the
9 applicant shall submit a copy of a street closure permit, and any other City, state, or federal permit
10 required for the proposed activity.

11 (i) A proposed Security Plan as defined in Section 1060~~(n)~~.

12 * * * *

13 **SEC. 1060.3.1. APPLICATION FORM FOR LIMITED LIVE PERFORMANCE**
14 **PERMIT.**

15 An application for a Limited Live Performance Permit shall specify the following and be
16 signed under penalty of perjury:

17 * * * *

18 (h) A plan for the Business to operate as a Limited Live Performance Locale,
19 specifying the days and hours of operation, the number of employees and their duties, the
20 number of patrons, a statement certifying that the Business shall comply with the maximum
21 occupancy load for the space as established under the San Francisco Building and Fire
22 Codes, the types or classes of live performances (in terms of the types of instruments,
23 numbers of performers, and sound levels) to be provided, and the amount of parking, both on
24 and off-site, to be provided. If sound amplification is to be used, the plan shall also include a
25 specific description of the amplification system, and whether the Business proposes to use

1 Amplified Sound Equipment to project sound outside of any building or at any location out of doors. If
2 the plan includes outdoor amplified sound, it shall also include the following information: (1) the
3 location at which Amplified Sound Equipment will be placed out of doors, (2) the hours and dates
4 during which sound will be amplified, (3) a specific description of the amplification system to be used,
5 including the type of sound to be amplified (e.g., speech or music), (4) a statement certifying that the
6 Business shall comply with the maximum noise levels as established under the Police and Health
7 Codes, and (5) a statement whether the activity will take place within 300 feet of a hospital, school,
8 house of worship, courthouse, public library, or mortuary during the normal hours of use of said
9 facilities. Where applicable, the applicant shall submit a copy of a street closure permit, and any other
10 City, state, or federal permit required for the proposed activity.

11 * * * *

12 **SEC. 1060.3.2. APPLICATION FORM FOR FIXED PLACE OUTDOOR AMPLIFIED**
13 **SOUND PERMIT.**

14 (a) An application for a Fixed Place Outdoor Amplified Sound Permit shall specify the
15 following and be signed under penalty of perjury:

16 (1) The name and street address of the Business for which the permit is sought;
17 however, if the application relates to a Plaza as identified in Administrative Code Chapter 94, the
18 application shall instead include the name and location of the Plaza and the name and street address of
19 the Steward or permittee of the Plaza, and if it relates to a People Place, as identified in Administrative
20 Code Chapter 94A, the application shall instead include the name and location of the People Place and
21 the name and street address of the Steward of the People Place.

22 (2) The name and address of the applicant as follows:

23 (A) If the applicant is a corporation, the name of the corporation exactly as
24 shown in its articles of incorporation; the date and place of incorporation; and the name and address
25 of each officer and director.

1 (B) If the applicant is a Person other than a publicly traded company, the name
2 and address of every Person that directly or indirectly owns or controls 10% or more of the assets,
3 ownership interests, or voting interests in that Person.

4 (3) The name of and contact information for the Manager who shall directly, or through
5 designees, be on the premises during all hours of operation.

6 (4) The name and address of each Person who appears on the business registration
7 certificate for the Business for which a permit is sought.

8 (5) The name and address of each Person to whom the Department of Alcoholic
9 Beverage Control has issued a license for the Business for which a permit is sought.

10 (6) The names and addresses of the Persons who have or will have authority or control
11 over the Business and a brief statement of the nature and extent of such authority and control, if the
12 applicant has not otherwise provided this information in the application.

13 (7) The name and address of the Person authorized to accept service of process.

14 (8) A plan for the Business to operate outdoor Amplified Sound Equipment including
15 the following: (A) the location at which Amplified Sound Equipment will be placed out of doors, (B) the
16 hours and dates during which sound will be amplified, (C) a specific description of the amplification
17 system to be used, including the type of sound to be amplified (e.g., speech or music), (D) a statement
18 certifying that the Business shall comply with the maximum noise levels as established under the Police
19 and Health Codes, and (E) a statement whether the activity will take place within 300 feet of a hospital,
20 school, house of worship, courthouse, public library, or mortuary during the normal hours of use of
21 said facilities.

22 (9) Where applicable, the applicant shall submit a copy of a street closure permit, and
23 any other City, state, or federal permit required for the proposed activity.

24 (10) Such further information as the Entertainment Commission requires regarding
25 financial and lease arrangements and management, authority, and operational control of the Business

1 or its premises when the information will assist the Commission in its determination whether to grant
2 or deny the permit.

3 (b) A Person that is seeking or already has a Place of Entertainment Permit or Limited Live
4 Performance Permit for a particular premises, locale, Plaza as identified in Administrative Code
5 Chapter 94, or People Place as identified in Administrative Code Chapter 94A, shall not apply for a
6 Fixed Place Outdoor Amplified Sound Permit for the same location. The use of outdoor Amplified
7 Sound Equipment in conjunction with Entertainment or Live Performance at such premises shall be
8 governed by the Place of Entertainment Permit or Limited Live Performance Permit for that location,
9 as appropriate. Persons seeking to add the use of outdoor Amplified Sound Equipment to an existing
10 Place of Entertainment Permit or Limited Live Performance Permit shall file a request for an
11 amendment to the existing permit in accordance with Section 1060.24.1 of this Article 15.1.

12 **SEC. 1060.5. DETERMINATION OF APPLICATION FOR A PLACE OF**
13 **ENTERTAINMENT PERMIT.**

14 * * * *

15 (f) The Entertainment Commission shall grant or conditionally grant a permit for a
16 Place of Entertainment pursuant to this Article unless it finds ~~that~~:

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

20 (2) Notwithstanding the mitigation provided under the Security Plan submitted
21 by the applicant, the building, structure, equipment, or location of the proposed Business
22 cannot adequately accommodate the type and volume of vehicle and pedestrian traffic
23 anticipated; or

24 (3) The premises or the proposed operation of the Business lacks adequate
25 safeguards to prevent emissions of noise, glare, dust, and odor that would substantially

1 interfere with the public health, safety, and welfare or the peaceful enjoyment of neighboring
2 property; or

3 (4) The permit applicant has not provided a Security Plan that adequately
4 addresses the safety of persons and property and provides for the orderly dispersal of
5 individuals and traffic.

6 (5) In addition to the findings stated in subsections (f)(1)-(4), if the proposed operation
7 of the Business includes the emission of outdoor amplified sound within 300 feet of a hospital, school,
8 place of worship, courthouse, public library, or mortuary during the normal hours of use of said
9 facility, the Commission shall not grant the permit unless the Commission finds that the sound emitted
10 will not be disruptive of the operations of said facility. If there are no other grounds for denial of the
11 permit, the permit shall be issued where the sound emission would occur more than 300 feet from a
12 hospital, school, place of worship, courthouse, public library, or mortuary, unless the Commission
13 finds that the sound emitted will be disruptive of the operations of said facility.

14 (6) If there is an unresolved citation applicable to the premises that has been
15 issued by a City department, the Entertainment Commission shall not grant the permit without
16 documented authorization from the department that issued the citation.

17 (6) (7) If the Chief of Police or the Chief's designee, in person at the
18 Entertainment Commission hearing on the permit application or in writing prior to the hearing,
19 objects to the granting of the permit on the basis that the Commission should make one or
20 more of the findings stated in Subsections (f)(1)-(45) above, the Commission may not issue
21 the permit without specifically addressing the objection in writing or on the record, at a
22 Commission meeting, and explaining specifically why the objection does not warrant the
23 finding. This explanation requirement applies but is not limited to objections raised by the
24 Chief or Chief's designee to the adequacy of a proposed security plan. For purposes of this
25 Subsection (f)(67), the Captain for the district where the Place of Entertainment would be

1 located, or the Captain's designee, is deemed the Chief's designee unless the Chief of Police
2 directs otherwise.

3 (78) The explanation requirement stated in Subsection (f)(67) ~~above~~ also applies
4 to objections raised by other City departments; provided, however, that this ~~§~~subsection (f)(78)
5 does not diminish the power of other City departments to issue permits or other authorization
6 required for a Business to operate, and does not empower the Entertainment Commission to
7 override a decision by another City department regarding the issuance of a permit or other
8 authorization required for a Business to operate.

9 (89) When granting a permit, the Commission shall explain in writing or on the
10 record, at a Commission meeting, why it has not made any of the findings stated in
11 ~~§~~subsections (f)(1)-(45) ~~above~~.

12 (109) In considering whether to make any of the findings stated in ~~§~~subsections
13 (f)(1)-(45) ~~above~~, the Commission shall consider where relevant the circumstances
14 surrounding any previous denial of a permit application or previous suspension or revocation
15 of a permit, under this Article 15.1 or Article 15.2, for the same permit applicant or Permittee.

16
17 **SEC. 1060.5.1. DETERMINATION OF APPLICATION FOR LIMITED LIVE**
18 **PERFORMANCE PERMIT.**

19 * * * *

20 (d) The Entertainment Commission shall hold a hearing and determine whether to
21 grant or deny the permit within 45 City business days of the date that the applicant has
22 submitted a complete application under Section 1060.5-~~15.1~~(a), except that this 45-day period
23 shall be extended for such period or periods of time that apply under any of the following
24 circumstances:

1 (e) (1) If the permit applicant has not obtained all permits required for the Business
2 from other City departments by the date of the hearing on the application, the Entertainment
3 Commission may grant a conditional permit pending the issuance of the other required City
4 permits; provided, however, the Commission shall take this action only if sufficient information
5 has been provided to allow for adequate evaluation of the application and if grounds for
6 denial, as set forth in ~~§~~subsection (f), are not present. Any permit conditionally granted by the
7 Entertainment Commission under this ~~§~~subsection (e)(1) may be appealed to the Board of
8 Appeals. Any such appeal shall be filed within 10 days of the decision of the Entertainment
9 Commission's conditionally granting the permit. No Person may operate a Business for which
10 a permit has been conditionally granted unless and until the Person has obtained all permits
11 and authorizations required from other City departments.

12 (2) If the Entertainment Commission does not grant, conditionally grant, or deny
13 the permit for a Limited Live Performance Locale within the time required by ~~§~~subsection (d),
14 including any extensions of time provided for therein, the permit sought by the applicant shall
15 be deemed granted, conditioned on the requirements that the Permittee obtain all required
16 permits from other City departments within nine months and comply with all the requirements
17 of this Article. The time by which the Entertainment Commission must act commences on the
18 date that the applicant has filed a completed application under Section 1060.5-~~15.1~~(a).

19 (f) The Entertainment Commission shall grant or conditionally grant a Limited Live
20 Performance Permit pursuant to this Article 15.1 unless it finds that:

21 (1) The premises or the proposed operation of the Business does not comply
22 with the health, zoning, fire, and safety requirements of the laws of the State of California or
23 ordinances of the City and County of San Francisco applicable to the Business; or

24 (2) The establishment does not qualify as a Limited Live Performance Locale
25 as defined in Section 1060~~(#)~~; or

1 (3) The presentation of Live Performances at the Limited Live Performance
2 Locale will (A~~i~~) generate the type and volume of vehicle and pedestrian traffic that will cause
3 substantial congestion, (B~~ii~~) adversely affect the safety and security of persons, (C~~iii~~) impede
4 the orderly dispersal of individuals and traffic, or (D~~iv~~) otherwise substantially interfere with the
5 public health, safety, and welfare or the peaceful enjoyment of neighboring property due to
6 excessive noise or any other factor. The Commission may impose conditions on the permit,
7 including a security plan or time, place, and manner restrictions, if necessary and appropriate
8 to guard against these adverse effects. The Limited Live Performance Permit is subject to
9 Article 29 of ~~the Police~~ this Code, regulating noise.

10 (g) In addition to the findings stated in subsections (f)(1)-(3), if the proposed operation of the
11 Limited Live Performance Locale includes the emission of outdoor amplified sound within 300 feet of a
12 hospital, school, place of worship, courthouse, public library, or mortuary during the normal hours of
13 use of said facility, the Commission shall not grant the permit unless the Commission finds that the
14 sound emitted will not be disruptive of the operations of said facility. If there are no other grounds for
15 denial of the permit, the permit shall be issued where the sound emission would occur more than 300
16 feet from a hospital, school, place of worship, courthouse, public library, or mortuary, unless the
17 Commission finds that the sound emitted will be disruptive of the operations of said facility.

18 (gh) If there is an unresolved citation applicable to the premises that has been issued
19 by a City department, the Entertainment Commission shall not grant the permit without
20 documented authorization from the department that issued the citation.

21 (hi) In considering whether to make any of the findings stated in ~~S~~subsections (f)(1)-(3)
22 or the finding stated in subsection (g), or to impose conditions on a Limited Live Performance
23 Permit, the Commission shall consider where relevant the circumstances surrounding any
24 previous denial of a permit application or previous suspension or revocation of a permit, under
25 this Article 15.1 or Article 15.2, for the same permit applicant or Permittee.

1 (j) If the Permit is for a Plaza as identified in Administrative Code Chapter 94, the Permit shall
2 state that it automatically expires upon termination or expiration of the Real Estate Division license for
3 that Plaza issued pursuant to Chapter 94 of the Administrative Code. If the permit is for a People
4 Place as identified in Administrative Code Chapter 94A, the Permit shall state that it automatically
5 expires upon termination or expiration of the People Place Permit issued pursuant to Chapter 94A of
6 the Administrative Code.

7
8 **SEC. 1060.5.2. DETERMINATION OF APPLICATION FOR FIXED PLACE OUTDOOR**
9 **AMPLIFIED SOUND PERMIT.**

10 (a) Application. The applicant shall file the application for a Fixed Place Outdoor Amplified
11 Sound Permit with the Director. The Director may require that the applicant or the applicant's agent
12 file the application in person. Upon determining that an application is complete, the Director shall
13 accept and file it and shall schedule a public hearing before the Entertainment Commission to
14 determine whether the permit should be granted. The Director shall provide written notice of the
15 hearing to the applicant by mail or to the applicant's agent by personal delivery at least 30 days before
16 the date of the hearing.

17 (b) Notices.

18 (1) The applicant shall cause a notice of the hearing to be conspicuously and
19 continuously posted on the premises of the proposed Fixed Place Outdoor Amplified Sound Locale for
20 at least 30 days before the scheduled hearing date. The Director shall promptly provide notice of the
21 hearing to any Person who has filed a written request for such notice, which notice may be given
22 electronically if the Person has provided electronic contact information, or by mail.

23 (2) The Director shall provide a copy of all Fixed Place Outdoor Amplified Sound
24 Permit applications and the corresponding public hearing notices within a specified geographic area to
25 any Person who, in writing or by email, requests such and identifies the area. Such applications and

1 notices shall be given at least 30 days prior to the date of the public hearings, or within 5 days after
2 receipt of the request if the request is less than 30 days prior to the hearing.

3 (3) In the event of a continued hearing, the applicant shall cause notice of the continued
4 hearing to be conspicuously and continuously posted on the premises for at least 10 days before the
5 date of the continued hearing. The Director shall promptly provide notice of the continued hearing
6 electronically or by mail to any Person who has filed a written request for such notice.

7 (4) The failure of the Director to provide the notice of the hearing to any Person who
8 filed a written request as provided in subsections (b)(1) and (2) shall not constitute grounds for
9 invalidation of the actions of the Commission taken at the hearing.

10 (c) At the hearing on the application, the applicant and any other interested party, including
11 the Police Department or any other public agency, may introduce evidence and present argument
12 relating to the standards for review under subsection (f).

13 (d) **Timing.** The Entertainment Commission shall hold a hearing and determine whether to
14 grant or deny the permit within 45 City business days of the date that the applicant has submitted a
15 complete application under Section 1060.3.2, except that this 45-day period shall be extended for such
16 period or periods of time that apply under any of the following circumstances:

17 (1) If the Entertainment Commission finds that an extension of time is necessary to
18 obtain additional information for its review of the application under the standards set forth in
19 subsection (f), the time period shall be extended for an additional amount of time as the Commission
20 determines appropriate, up to 15 additional days.

21 (2) Upon the applicant's request, the Entertainment Commission shall continue the
22 hearing for an additional period of time to allow the applicant an opportunity to comply with the
23 requirements of this Article 15.1, in which case the time period is extended for that additional period.

24 (3) If the applicant fails to post or maintain notice of the hearing as required by
25 subsection (b), the Director shall have the hearing before the Entertainment Commission continued for

1 such period or periods of time that the Director determines necessary for the applicant to comply with
2 the posting requirement, in which case the time period is extended for that additional period or periods
3 of time.

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

8 **(e) Conditional Grant.**

9 (1) If the permit applicant has not obtained all permits required for the Business from
10 other City departments by the date of the hearing on the application, the Entertainment Commission
11 may grant a conditional permit pending the issuance of the other required City permits; provided,
12 however, the Commission shall take this action only if sufficient information has been provided to allow
13 for adequate evaluation of the application and if grounds for denial, as set forth in subsection (f), are
14 not present. Any permit conditionally granted by the Entertainment Commission under this subsection
15 (e)(1) may be appealed to the Board of Appeals. Any such appeal shall be filed within 10 days of the
16 decision of the Entertainment Commission conditionally granting the permit. No Person may operate
17 Amplified Sound Equipment for which a permit has been conditionally granted unless and until the
18 Person has obtained all permits and authorizations required from other City departments.

19 (2) If a Permittee has been conditionally granted a permit but has not obtained all of
20 the permits required from other City departments within nine months from the date that the
21 Entertainment Commission conditionally granted the permit, the conditionally granted permit shall
22 expire by operation of law and be void. Notwithstanding the foregoing sentence, upon the Permittee's
23 written request and a showing of good cause, the Commission may extend the aforementioned nine-
24 month deadline for up to 24 months, subject to an additional extension or extensions totaling no more

1 than 12 months beyond the aforementioned 24 months. In its discretion, the Commission may delegate
2 to the Director, in whatever manner it deems appropriate, the power to extend the nine-month deadline.

3 (3) If the Entertainment Commission does not grant, conditionally grant, or deny the
4 permit for a Fixed Place Outdoor Amplified Sound Locale within the time required by subsection (d),
5 including any extensions of time provided for therein, the permit sought by the applicant shall be
6 deemed granted, conditioned on the requirements that the Permittee obtain all required permits from
7 other City departments within nine months and comply with all the requirements of this Article 15.1.
8 The time by which the Entertainment Commission must act commences on the date that the applicant
9 has filed a completed application under Section 1060.5.2(a).

10 **(f) Grounds for Denial.**

11 (1) The Commission shall grant or conditionally grant a Fixed Place Outdoor Amplified
12 Sound Permit pursuant to this Article 15.1 unless it finds that:

13 (A) The premises or the proposed operation of the Business does not comply
14 with the health, zoning, fire, and safety requirements of the laws of the State of California or
15 ordinances applicable to the Business;

16 (B) The proposed use of outdoor Amplified Sound Equipment at the premises is
17 unsuitable for the area covered by the requested permit and/or incompatible with other neighborhood
18 activities because it will (i) substantially interfere with the public health, safety, and welfare or the
19 peaceful enjoyment of neighboring property; (ii) generate the type and volume of vehicle and
20 pedestrian traffic that will cause substantial congestion and/or impede the orderly dispersal of
21 individuals and traffic, or (iii) adversely affect the safety and security of persons, including traffic and
22 pedestrian safety. In making such determinations, the Commission may consider prior complaints it
23 has received from neighboring businesses and/or residents pertaining to the applicant's activities
24 and/or the applicant's prior violations of City noise ordinances, provided that a prior violation shall
25 not, by itself, be grounds for denial of a permit.

1 (C) There has been a previous denial of a permit application or previous
2 suspension or revocation of a permit issued by the Entertainment Commission for the same permit
3 applicant within the last 12 months, or the specific circumstances surrounding a previous denial,
4 suspension, or revocation from more than one year ago warrant denial; or

5 (D) The outdoor amplified sound would be emitted within 300 feet of a hospital,
6 school, place of worship, courthouse, public library, or mortuary during the normal hours of use of
7 said facility, unless the Commission finds that the sound emitted will not be disruptive of the operations
8 of said facility. If there are no other grounds for denial of the permit, the permit shall be issued where
9 the sound emission would occur more than 300 feet from a hospital, school, place of worship,
10 courthouse, public library, or mortuary, unless the Commission finds that the sound emitted will be
11 disruptive of the operations of said facility.

12 (2) If there is an unresolved citation applicable to the premises that has been issued by
13 a City department, the Entertainment Commission shall not grant the permit without documented
14 authorization from the department that issued the citation.

15 (3) If the Chief of Police or the Chief's designee, or the Director of the Department of
16 Public Health or the Director's designee, in person at the Entertainment Commission hearing on the
17 permit application or in writing prior to the hearing, objects to the granting of the permit on the basis
18 that one or more of the findings stated in subsections (f)(1)(A)-(D) above apply, the Commission may
19 not issue the permit without specifically addressing the objection in writing, or on the record at a
20 Commission meeting, and explaining specifically why the objection does not warrant the finding. The
21 explanation requirement stated in the foregoing sentence also applies to objections raised by other City
22 departments.

23 (4) In considering whether to make any of the findings stated in subsections (f)(1)(A)-(D)
24 or to impose conditions on a Fixed Place Outdoor Amplified Sound Permit, the Commission shall
25 consider where relevant the circumstances surrounding any previous denial of a permit application,

1 previous suspension or revocation of a permit, or previous citations or penalties for violations under
2 this Article 15.1 or Article 15.2, for the same permit applicant or Permittee.

3 (5) When granting a permit, the Commission shall explain in writing or on the record,
4 at a Commission meeting, why it has not made any of the findings stated in subsections (f)(1)(A)-(D)
5 above.

6 (g) Conditions on Permits.

7 (1) When the Commission grants or conditionally grants a permit, it shall require the
8 applicant as a condition of the permit to comply with the outdoor amplified sound regulations in
9 Section 1060.16 of this Article 15.1, unless the Commission finds grounds for different limits on
10 outdoor amplified sound. In considering whether to impose sound limits that are different from those in
11 Section 1060.16, the Commission shall consider the factors enumerated in subsection (c) of Section
12 1060.16.

13 (2) The Commission may impose additional reasonable time, place, and manner
14 conditions on the permit. The Commission shall in no event impose conditions pursuant to this Section
15 1060.5.2 which are designed to limit the content of First Amendment expression engaged in by persons
16 governed by the permit or which unreasonably interfere with the right of free speech.

17
18 **SEC. 1060.13. MINORS – ADULT ENTERTAINMENT.**

19 No person under 21 years of age shall enter, be, or remain in or on any premises on or
20 in which an act of a female entertainer as described in the definition of Entertainment in Section
21 1060any exhibition of the human body, as defined in Section 1060(g)(4), is presented, and permittee
22 shall not permit such a person to enter, be, or remain in or on any such premises.

23
24 **SEC. 1060.15. SOUND TEST AND SOUND MONITORING.**

1 (a) Sound Test. As a condition of any permit issued under this Article 15.1, the
2 Commission or the Director shall have the authority to require a sound test to be performed by a
3 Commission sound inspector to ensure compliance with the allowable noise limits under this
4 Article 15.1, Section 49 and Article 29 of the ~~San Francisco~~ Police Code, or any alternative
5 noise limits set by the Commission in the permit ~~as authorized by subsection (e) of Section 2909 of~~
6 ~~this Code.~~

7 (b) Sound Monitoring. As a condition of any permit issued under this Article 15.1, the
8 Commission or the Director shall have the authority to require sound monitoring to be performed by a
9 Commission sound inspector to ensure compliance with the allowable noise limits under this Article,
10 Section 49 and Article 29 of the Police Code, or any alternative noise limits set by the Commission in
11 the permit as authorized by subsection (e) of Section 2909 of this Code, and may assess the hourly
12 sound monitoring fee set forth in Section 2.26 for such purposes.

13
14 **SEC. 1060.16. OUTDOOR AMPLIFIED SOUND REGULATIONS.**

15 (a) Findings. The use or operation of amplified sound equipment to project sound outside of
16 any building or at any location out of doors in the City may be detrimental to the health, welfare, and
17 safety of the inhabitants of the City, in that such use or operation diverts the attention of pedestrians
18 and vehicle operators in the public streets and places, thus increasing traffic hazards and potentially
19 causing injury to life and limb. Further, such use or operation may disturb the public peace and
20 comfort and the peaceful enjoyment by the people of their rights to use the public streets and places for
21 street and other public purposes, and may disturb the peace, quiet, and comfort of the neighboring
22 inhabitants. Therefore, the proper regulation of such use and operation of outdoor amplified sound
23 equipment as set forth in this Section 1060.16 and Sections 1060.5.2, 1060.27, and 1060.29.2 is
24 essential to protect the health, welfare, and safety of the inhabitants of the City, to secure the health,
25

1 safety, comfort, convenience, and peaceful enjoyment by the people of their rights to use the public
2 streets and places, and to secure the peace, quiet, and comfort of the City's inhabitants.

3 (b) Unless otherwise permitted by the Entertainment Commission following a public hearing,
4 and except as to Sound Truck Permits which are governed by Section 1060.27 of this Article 15.1, any
5 permit issued pursuant to this Article that authorizes the use of Amplified Sound Equipment to project
6 sound outside of any building or at any location out of doors in the City shall include the following
7 conditions with regard to outdoor amplified sound:

8 (1) Hours of operation of outdoor Amplified Sound Equipment shall be no earlier than
9 9:00 a.m. and no later than 10:00 p.m.;

10 (2) Amplified speech and music shall not be unreasonably loud, raucous, or jarring to
11 persons of normal sensitivities within the area of audibility, nor louder than permitted in subsection
12 (c); and

13 (3) The volume of outdoor sound shall be controlled so that it will not be audible for a
14 distance in excess of 250 feet from the property line of the Business or premises or from the periphery
15 of the attendant audience.

16 (c) In considering whether to impose noise limits that are different from those in subsection (b)
17 of this Section 1060.16, the Commission shall consider the following factors:

18 (1) Whether the Business, premises, or event will generate outdoor amplified sound in
19 the evening;

20 (2) In the case of an amendment to an existing permit, the length of time the Business or
21 premises has operated, either under the current operator or prior operators;

22 (3) In the case of an amendment to an existing permit, whether the Commission, Police
23 Department, Department of Public Health, or other City entity has received noise complaints related to
24 the operation of the Business or premises;

1 (4) The proximity of the Business or premises to other outdoor amplified sound or
2 commercial uses;

3 (5) The proximity of the Business or premises to existing residential buildings; and/or

4 (6) The proximity of the Business or premises to hospitals, schools, houses of worship,
5 courthouses, public libraries, or mortuaries and those facilities' normal hours of use.

6 (d) For Fixed Outdoor Amplified Sound permits, a Commission sound inspector shall perform
7 a sound test per Section 1060.15 of this Code before the Permittee may commence operations under the
8 permit. The Commission may also require that a Commission sound inspector perform a sound test per
9 Section 1060.15 before a Permittee may commence operations under a One Time Amplified Sound
10 Permit.

11
12 **SEC. 1060.19. PERMIT FEE; EXEMPTIONS.**

13 (a) Place of Entertainment, Limited Live Performance, and Fixed Place Outdoor Amplified
14 Sound Permit Fee Exemptions.

15 (1) The provisions of Section 1060.2 relating to a permit fee shall not apply to
16 any Place of Entertainment, ~~or~~ Limited Live Performance Locale, or Fixed Place Outdoor
17 Amplified Sound Locale used exclusively for any of the following purposes: ~~(a)~~ Places of
18 Entertainment, ~~or~~ Limited Live Performance Locales, or Fixed Place Outdoor Amplified Sound
19 Locales that are operated by any public agency or by any educational, recreational, or social
20 agency, or by any bona fide fraternal, charitable, ~~or~~ religious, ~~or~~ benevolent, or any other
21 nonprofit organization having a regular membership association primarily for mutual social,
22 mental, political, and civic welfare, to which admission is limited to members and guests and
23 revenue accruing therefrom is to be used exclusively for the benevolent purposes of said
24 organization and which organization or agency is exempt from taxation under the Internal
25

1 Revenue laws of the United States as a bona fide fraternal, charitable, religious, benevolent,
2 or nonprofit organization.

3 ~~(b)~~ (2) Notwithstanding the above §subsection (a)(1), the Steward or permittee
4 for a Plaza as identified in Administrative Code Chapter 94 and a People Place as identified in
5 Administrative Code Chapter 94A shall be subject to the permit fee of Section 1060.2.

6 **(b) One Time Event and One Time Outdoor Amplified Sound Permit Fee Exemption and**
7 **Waiver.**

8 (1) Exemption. The provisions of Section 1060.2 relating to a permit fee shall not
9 apply to a One Time Event or One Time Outdoor Amplified Sound Event permit application filed by an
10 entity that has received City funds specifically for the event that is the subject of the permit application.

11 (2) Fee Waivers.

12 (A) Individuals. The Director may grant an individual applicant an exemption
13 from paying the filing fee for a One Time Event or One Time Outdoor Amplified Sound Event Permit
14 upon the applicant's filing under penalty of perjury a declaration of financial hardship on the form
15 provided by the Entertainment Commission. The form shall use the indigency standards set out in
16 California Government Code Section 68632, as amended from time to time. The applicant shall submit
17 the financial hardship declaration concurrently with the permit application.

18 (B) Nonprofit and Neighborhood Organizations. The Director may grant a
19 nonprofit organization, neighborhood association, or similar community-based group an exemption
20 from paying the filing fee for a One Time Event or One Time Outdoor Amplified Sound Permit for an
21 event if (i) the proposed event is free and open to the public, and (ii) the filing fee is more than 25% of
22 the total projected budget for the event.

1 **SEC. 1060.24. PERMITS NOT TRANSFERABLE; PERMIT MUST BE**
2 **SURRENDERED UPON SALE OF BUSINESS; PERMIT AMENDMENT REQUIRED TO**
3 **CHANGE PARTNERS OR OTHER OWNERS.**

4 (a) No Person may transfer a Place of Entertainment Permit, ~~or~~ Limited Live
5 Performance Permit, or Fixed Place Outdoor Amplified Sound Permit to any other Person.

6 (b) If a Place of Entertainment Permittee, ~~or~~ Limited Live Performance Permittee, or
7 Fixed Place Outdoor Amplified Sound Permittee ~~S~~sells the Business, the Permittee shall promptly
8 surrender the permit to the Director. If the Permittee fails to surrender the permit to the
9 Director, the Director may, after giving the Permittee notice by mail and electronically of the
10 proposed action and an opportunity to respond, revoke the permit.

11 (c) Notwithstanding Subsections (a) and (b) of this Section 1060.24, a Permittee may
12 change partners, shareholders, or other owners of a Business provided that (1) the sale or
13 other transfer of ownership results in a Person owning no more than 50% of the Business,
14 regardless of the form of ownership, and (2) the Permittee obtains an amendment to the
15 Permit as provided in this Section. If the transfer of ownership does not result in any Person
16 (who did not already have such a percentage interest) having an ownership interest of ~~ten~~
17 ~~percent~~ 10% or more, the Permittee is not required to obtain a permit amendment.

18 (d) A Permittee seeking to amend a permit as required under this Section 1060.24 shall
19 pay the filing fee for Permit Amendment/Additional Partner set forth in Section 2.26 of this
20 Code. The applicant shall provide that portion of the information sought under Section 1060.3,
21 ~~or~~ 1060.3.1, or 1060.3.2 for an application that the Director requires.

22 (e) The Director shall determine within 30 days of the filing of a complete application to
23 amend a permit whether to approve it. The Director shall approve the application unless ~~he or~~
24 ~~she~~ the Director determines that denial is warranted under any of the grounds set forth in
25

1 Section 1060.5(f), ~~or 1060.5.1(f), or 1060.5.2(f)~~ and shall notify the Permittee and Manager of
2 the approval electronically and either by mail or personal delivery.

3 (f) If the Director determines that disapproval of the application may be warranted
4 under Section 1060.5(f), ~~or 1060.5.1(f), or 1060.5.2(f)~~, the Director shall schedule a hearing on
5 the matter for the next regularly scheduled meeting of the Entertainment Commission. The
6 Director shall promptly provide written notice of the hearing to the Permittee and the Manager
7 by mail and electronically.

8 (g) The Entertainment Commission shall determine whether to approve the application
9 according to the standards governing the initial application set forth in Section 1060.5(f), ~~or~~
10 1060.5.1(f), ~~or 1060.5.2(f)~~.

11 (h) Temporary Permits. Once the Entertainment Commission receives a surrendered
12 Place of Entertainment Permit, ~~or Limited Live Performance Permit, or Fixed Place Outdoor~~
13 ~~Amplified Sound Permit~~ under ~~Sub~~section 1060.24(b), the new owner of the business may apply
14 to the Director for a temporary Place of Entertainment Permit, ~~or Limited Live Performance~~
15 ~~Permit, or Fixed Place Amplified Sound Permit~~, subject to any required Planning Department
16 approvals, for a period not to exceed 90 days from the date of surrender (a "Temporary
17 Permit"). The Director may grant a Temporary Permit provided that (1) the new owner has
18 submitted a completed application for a Place of Entertainment Permit, ~~or Limited Live~~
19 ~~Performance Permit, or Fixed Place Outdoor Amplified Sound Permit~~, (2) the new owner's
20 Entertainment, ~~or Live Performance or Amplified Sound~~ events and activities are consistent with
21 those allowed under the prior Permit, (3) the premises at issue complies with all existing
22 health, safety, and fire ordinances, and (4) a Temporary Permit is necessary to ensure
23 uninterrupted operations of a business at the premises. This Temporary Permit may not be
24 renewed as a Temporary Permit. The Entertainment Commission may establish additional
25

1 procedures and Temporary Permit criteria to help carry out the goals of this Section
2 1060.24(h).

3
4 **SEC. 1060.24.1. COMPLIANCE WITH CONDITIONS; AMENDMENT OF PERMIT TO**
5 **CHANGE CONDITIONS.**

6 No Permittee shall operate a Business in any manner inconsistent with any condition
7 imposed on the permit. A Permittee may request an amendment to a permit to remove or
8 change a condition by filing a request with the Secretary of the Entertainment Commission and
9 paying the fee for an Amendment to a Permit required under Police Code Section 2.26. In the
10 case of applications to amend Place of Entertainment, Limited Live Performance, and Fixed Place
11 Outdoor Amplified Sound permits, the Entertainment Commission shall conduct a hearing and
12 determine whether to approve the application to amend the permit according to the applicable
13 procedures and standards governing the initial application for said permit as set forth in this
14 Article 15.1 Section 1060.5 and the standards set forth in Section 1060.5(f). In the case of applications
15 to amend permits that may be issued by the Director under this Article 15.1, such as One Time Event
16 Permits, One Time Outdoor Amplified Sound Event Permits, and Sound Truck Permits, the Director
17 may decide whether to approve the application or may, in the Director's sole discretion, refer the
18 application to amend to the Commission for a hearing and determination.

19
20 **SEC. 1060.25. CRIMINAL, ADMINISTRATIVE, AND CIVIL PENALTIES.**

21 (a) **CRIMINAL PENALTIES.** Any person who violates any provision of this Article 15.1
22 shall be deemed guilty of an infraction. Any person who violates this Article ~~15.1~~, or Police
23 Code Section 49, more than once in a 12-month period shall be guilty of ~~an infraction or a~~
24 misdemeanor, ~~at the discretion of the prosecutor~~. A first violation of this Article 15.1, or Police
25 Code Section 49, is an infraction that is punishable by a fine of not more than \$100. A second

1 violation within one year of the date of the first violation is ~~an infraction punishable by a fine of~~
2 ~~not more than \$200 or~~ a misdemeanor punishable by a fine of not to exceed \$1,000 or by
3 imprisonment in the County Jail for a period not to exceed six months, or by both such fine
4 and imprisonment, at the discretion of the prosecutor. A third or subsequent violation within
5 one year of the date of the second or subsequent violation is ~~an infraction punishable by a fine of~~
6 ~~not more than \$500 or~~ a misdemeanor punishable by a fine of not to exceed \$1,000 or by
7 imprisonment in the County Jail for a period not to exceed six months, or by both such fine
8 and imprisonment, at the discretion of the prosecutor. Each day a Person conducts, operates,
9 or maintains a Business without a valid permit shall constitute a separate violation.

10 (b) **ADMINISTRATIVE PENALTIES.**

11 (1) The Director may issue administrative citations for the violation of any
12 condition imposed on a permit granted under this Article 15.1 and the violation of any provision
13 of this Article including but not limited to Section 1060.1 (operating without a lawful Place of
14 Entertainment permit) and Section 1060.31 or 1060.32 (governing Security Plans). In addition,
15 the Director may issue administrative citations for the violation of any provision of law
16 regarding such permits, including but not limited to permits authorized under Police Code
17 Article 29 (Regulation of Noise). ~~San Francisco~~ Administrative Code Chapter 100, "Procedures
18 Governing the Imposition of Administrative Fines," is hereby incorporated in its entirety and
19 shall govern the amount of fees and the procedure for imposition, enforcement, collection, and
20 administrative review of administrative citations issued under this ~~S~~subsection (b). The
21 Director shall impose fines for violations of any permit condition and any violation of Section
22 1060.31 or 1060.32 as set forth in Section 100.5(a) of the ~~San Francisco~~ Administrative Code.
23 For purposes of calculating and imposing the administrative penalties under this ~~S~~subsection
24 ~~1060.25~~(b), each day a violation occurs or continues shall constitute a separate violation. The
25

1 Director may recover any costs and fees, including but not limited to attorneys' fees, for
2 enforcement initiated through this Section and authorized under this Article.

3 (2) Notwithstanding ~~§~~subsection (b)(1) ~~of this Section~~, the procedure governing
4 the appeal of a citation set forth in ~~San Francisco~~ Administrative Code Chapter 100 is revised
5 as provided in this ~~§~~subsection (b)(2). The Controller may designate the Director of the
6 Department of Public Works as a hearing officer under ~~San Francisco~~ Administrative Code
7 Section 100.7, but shall designate such officer for no more than one appeal a month and for
8 no more than 12 times in a 12-month period.

9 (3) **Failure to Pay the Administrative Penalties.** If the responsible party fails to pay the
10 administrative penalties to the Department within 30 days of service of the administrative citation, or
11 within 30 days of the date the penalties have been upheld on appeal, the Director may take such action
12 to collect the fees as he or she deems appropriate, including referral of the matter to the Bureau of
13 Delinquent Revenue Collection under Article V, Section 10.39 of the ~~San Francisco~~ Administrative
14 Code, initiation of lien proceedings under Article XX, Section 10.230 et seq. of the ~~San Francisco~~
15 Administrative Code, and/or requesting that the City Attorney pursue collection of the penalties
16 imposed against the responsible party in a civil action. The City Attorney may request its attorneys' fees
17 in any action that the City Attorney pursues to collect the administrative penalties or to enforce
18 collection of the penalties.

19 (c) **CIVIL PENALTIES.**

20 (1) Presumption of Noncompliance with Order. In addition to any other
21 penalties provided in this Article 15.1, any person or entity served with a notice or order by the
22 Director setting forth the nature of the violation of this Article, demanding correction of such
23 violation, and specifying the time within which such violation must be corrected, shall be
24 presumed, in subsequent civil proceedings, to have failed to comply with that notice or order
25

1 at and after the time given in that notice or order for correction of such violation, after the time
2 period specified in the notice or order has expired without correction of that violation.

3 (2) Injunction. *In a civil action brought by the City Attorney, any person who commits,*
4 *or proposes to commit, an action in violation of this Article 15.1 may be enjoined therefrom.*

5 (3) Penalty Amounts. Any person or entity violating this Article 15.1 shall be
6 liable for a civil penalty of up to \$1,000 per violation for each day such violation is committed or
7 permitted to continue, which penalty shall be assessed and recovered in a civil action brought
8 in the name of the people of the City and County of San Francisco by the City Attorney in any
9 court of competent jurisdiction.

10 ~~(3)~~ (4) Setting Civil Penalty. In assessing the amount of the civil penalty, the
11 Court shall consider any one or more of the relevant circumstances presented by any of the
12 parties to the case, including but not limited to the following: the nature and seriousness of the
13 misconduct, the number of violations, the persistence of the misconduct, the length of time
14 over which the misconduct occurred, the willfulness of the defendant's misconduct, and the
15 defendant's assets, liabilities, and net worth. In addition, such violations will not be deemed
16 legally abated until the property owner makes full payment of the assessment of costs and
17 fees awarded to the City under this Article or any applicable State law.

18 ~~(4)~~ (5) Cost Recovery. In any civil proceeding filed by the City Attorney to
19 collect civil penalties, the Court may award the ~~Department~~ City costs and fees, including but
20 not limited to attorneys' fees, and costs of investigation, enforcement, abatement, and
21 litigation, authorized under this Article.

22 (d) The remedies specified in this Article 15.1 shall not preclude any other remedies
23 available under state or local law.

24
25 **SEC.1060.25.1. PUBLIC NUISANCE – OPERATING WITHOUT A PERMIT.**

1 Any Business in violation of Section 1060.1 of this Article 15.1 (operating without a permit) is
2 deemed to be a public nuisance and may be subject to enforcement by the Director and/or the
3 Commission in its discretion, and penalties under Section 1060.25 of this Code or under other
4 applicable sections of the Municipal Code. The nuisance shall be abated by civil action pursuant to the
5 procedures set forth in Section 1060.25.

6
7 **SEC. 1060.27. SOUND TRUCK PERMIT.**

8 **(a) Director's Authority.**

9 (1) Except as otherwise provided in this Section 1060.27, the Director may issue Sound
10 Truck Permits and applicants may appeal the Director's denial of an application to the Entertainment
11 Commission as set forth in this Section.

12 (2) The Director shall have the discretion to submit any application to the
13 Entertainment Commission for its determination whether to grant or deny a Sound Truck Permit under
14 the provisions of this Section. Where the Director submits an application to the Commission, and the
15 Commission grants the Sound Truck Permit, the Director may, without further action by the
16 Commission, approve subsequent applications from the same Person to use a Sound Truck for future
17 dates, provided that (A) the subsequent application(s) contain no material changes regarding the
18 nature, location, or scope of the event or purpose for which the Sound Truck will be used, (B) neither
19 the Commission nor any other City agency has received complaints pertaining to the Sound Truck's
20 prior operations, and (C) any permit conditions imposed by the Commission when granting the initial
21 Sound Truck Permit are included in any and all such subsequent Sound Truck Permits.

22 **(b) Permit Application.**

23 (1) Every Person seeking a Sound Truck Permit shall file an application with the
24 Director no less than seven days before the proposed use of the Sound Truck and shall pay the filing fee
25 provided in Section 2.26 of this Code. The time limitation for the filing of a permit application may be

1 waived by the Director if the applicant can show that the event or events giving rise to the permit
2 application did not reasonably allow the applicant time to file within the time prescribed and
3 imposition of the time limitations would place an unreasonable restriction on the right of free speech.

4 (2) The application shall include the following information: (A) name and home address
5 of the applicant; (B) address of place of business of the applicant; (C) name and address of the person
6 having direct charge of the Sound Truck; (D) the purpose for which the Sound Truck will be used; (E) a
7 general statement as to the area or areas of the City in which the Sound Truck will be used, including a
8 proposed route if requested; (F) the proposed hours of operation of the Sound Truck; (G) the number of
9 days of proposed operation of the Sound Truck; (H) the general description of the Amplified Sound
10 Equipment which is to be used in or on the Sound Truck; and (I) the maximum sound-producing power
11 of the Amplified Sound Equipment to be used in or on the Sound Truck, the voltage used by said
12 equipment, and the rated power output in watts.

13 (3) Subject to the waiver provision in subsection (b)(1), the Director shall send the
14 application to the Police Department for input, which the Police Department shall provide to the
15 Director within three City business days of receiving the application.

16 (c) **Permit Grant or Denial.** The Director, or in applicable cases under subsection (a)(2) the
17 Entertainment Commission in the Director's stead, shall review applications for a Sound Truck Permit
18 according to the conditions and standards set forth in Section 1060.5.2(f) and (g), and shall grant a
19 permit unless the Director or the Commission finds (1) that the application was filed less than seven
20 days before the proposed use and a waiver was not granted or warranted, (2) denial is warranted
21 under any of the grounds set forth in Section 1060.5.2(f), or (3) another application has been submitted
22 and a permit issued for the same location during the same time period. If another application has been
23 submitted for the same time and place and is still pending, the Director or the Commission shall deny
24 that application unless the applicant requests that it remain open until the Director or Commission has
25 determined whether to grant or deny any earlier-filed application. When multiple applicants submit

1 complete applications for the same time and place, the Director or Commission shall make
2 determinations on them in the order in which they were received.

3 (d) Regulations for Sound Truck Use.

4 (1) Each Sound Truck Permit shall issue for no longer than one 12-hour period. A
5 single Sound Truck Permit may be issued for multiple trucks for the same time and place, subject to
6 payment of the applicable fees in Section 2.26 of this Code. There shall be no limit to the number of
7 trucks that may be covered by one permit.

8 (2) When granting a Sound Truck Permit, the Director, or in applicable cases under
9 subsection (a)(2) the Entertainment Commission in the Director's stead, shall require the applicant as
10 a condition of the permit to comply with the following regulations for use:

11 (A) Hours of operation permitted shall be between 9:00 a.m. and 10:00 p.m.;

12 (B) No Sound Truck with its amplifying device in operation shall traverse any
13 one block in the City more than eight times in any one calendar day;

14 (C) Amplified speech and music shall not be unreasonably loud, raucous, or
15 jarring to persons of normal sensitivities within the area of audibility;

16 (D) When the Sound Truck is in motion, the volume of sound shall be controlled
17 so that it will not be audible for a distance in excess of 450 feet from its source; provided, however, that
18 when the Sound Truck is stopped by traffic, the said sound amplifying equipment shall not be operated
19 for longer than two minutes at such stop; and

20 (E) When the Sound Truck is not in motion, the volume of sound shall be
21 controlled so that it will not be audible for a distance in excess of 250 feet from the periphery of the
22 attendant audience.

23 (3) If a permit applicant seeks permit conditions that diverge from any of the
24 aforementioned regulations in subsection (d)(2)(A)-(E), the application must be heard and decided by
25 the Commission, not the Director.

1 (4) The Director or the Entertainment Commission may impose additional reasonable
2 restrictions on the time, place and manner of the use of amplified sound on the Sound Truck. The
3 Director or Entertainment Commission shall in no event impose conditions pursuant to this Section
4 1060.27 that are designed to limit the content of First Amendment expression engaged in by persons
5 subject to the permit or which unreasonably interfere with the right of free speech.

6 (e) **Permit Denial.** If the permit is denied, the Director, or in applicable cases under
7 subsection (a)(2) the Entertainment Commission in the Director's stead, shall state in writing the
8 reason for the denial and shall notify the applicant of the determination electronically and either by
9 mail or personal delivery.

10 **(f) Appeal to Entertainment Commission.**

11 (1) An applicant for a Sound Truck Permit who files an application at least 40 days
12 before the date of the proposed event shall have the right to appeal the Director's denial of the
13 application to the Entertainment Commission. The Director shall act on applications filed at least 40
14 days before the event within a time period that allows for an appeal to the Commission. The applicant
15 may appeal the Director's decision to the Commission by filing a written request for review within five
16 City business days of the Director's decision. The Commission shall hear and decide the appeal as
17 expeditiously as possible, but in no event later than 21 days after the date that the applicant filed the
18 appeal.

19 (2) Applicants who do not file at least 40 days before the proposed event shall have no
20 right to appeal a denial of the application to the Entertainment Commission unless the Commission has
21 sufficient time to schedule and provide notice of the hearing on the matter for a regularly scheduled
22 meeting. If the applicant has filed the application less than 40 days before the proposed event and the
23 Commission does not have sufficient time to provide the required public notice of the appeal for a
24 regularly scheduled meeting, the Commission is not required to consider the matter. When an
25 applicant files an application less than 40 days before the proposed event, the Director shall inform the

1 applicant that there may be insufficient time for the applicant to appeal the Director's denial to the
2 Commission.

3 (g) **Non-Transferable.** Sound Truck Permits are not transferable. The Permit is valid only for
4 the Person to whom it is issued for the premises specified in the permit.

5 (h) **Judicial Review.** An applicant may seek immediate judicial review of an adverse decision
6 by the Director under this Section 1060.27 pursuant to California Code of Civil Procedure Section 1085
7 or Section 1094.8, as those provisions may be amended, including any successor provisions, or any
8 other procedure provided by law. The applicant may, but is not required to, exhaust his or her
9 administrative remedies before the Entertainment Commission and Board of Appeals.

10
11 **SEC. 1060.29. ONE TIME EVENT PERMIT.**

12 (a) This Section 1060.29 provides a procedure for permitting a Person to conduct,
13 maintain, promote, or sponsor Entertainment on the premises specified in the One Time Event
14 Permit for a limited number of one-day occurrences in a 12-month period, including operation
15 between 2:00 a.m. and 6:00 a.m. No Person shall conduct, maintain, promote or sponsor
16 Entertainment between 2:00 a.m. and 6:00 a.m. without a One Time Event Permit or an
17 Extended-Hours Premises Permit. One Time Event Permits may be issued for a premises for
18 which a Place of Entertainment Permit has been issued, but for which no Extended-Hours
19 Premises Permit has been issued, when the applicant proposes operating between 2:00 a.m.
20 and 6:00 a.m. Nevertheless, the One Time Event Permit is not intended to function as a
21 routine substitute for a Person's securing either the Place of Entertainment Permit or the
22 Extended-Hours Permit when the Person's course of conduct indicates that either or both of
23 those permits would be more appropriate to seek. For purposes of One Time Event Permits,
24 the word "premises" means the area or structure where the event for which a permit is sought
25 occurs, and includes outdoor areas.

1 (b) Except as otherwise provided in this Section 1060.29, the Director may issue One
2 Time Event Permits and applicants may appeal the Director's denial of an application to the
3 Entertainment Commission.

4 (c) A Person may obtain a single One Time Event Permit authorizing events on consecutive or
5 non-consecutive days for the same premises, provided that such events may not occur for more than a
6 total of 12 days at the same premises within any 12-month period. Each One Time Event Permit shall
7 issue for no longer than one 24-hour period One Time Event Permits may not ~~be issued for the~~
8 ~~same premises~~ authorize events on the same premises for consecutive 24-hour periods without a
9 six-hour break between the end time for the first day permit and the start time for the next day
10 second permit. If a One Time Event Permit includes permission to operate between 2:00 and
11 6:00 a.m., ~~another One Time Event Permit for the same premises later that calendar day~~ the Permit
12 may not authorize commencement of operations before ~~12:00 noon~~ for the same premises later
13 that calendar day.

14 (d) There shall be no limit on the number of One Time Event Permits a Person may
15 obtain, provided that no more than one permit per month is issued for the same premises.
16 Notwithstanding this restriction, One Time Event Permits may be issued for events that will
17 occur on consecutive or non-consecutive days on the same premises, ~~or on non-consecutive days~~
18 ~~within a ten-day period on the same premises, but shall not issue permits allowing~~ provided that such
19 ~~events to~~ may not occur for more than a total of 12 days on the same premises within any
20 ~~twelve~~ 12-month period.

21 * * * *

22 (f) The One Time Event Permit shall be subject to reasonable time, place, and
23 manner conditions, including but not limited to conditions on indoor and outdoor amplified
24 sound, in-and-out privileges, admission of minors, and lighting of the premises. With regard to
25

1 outdoor amplified sound, the permit shall include the conditions required under Section 1060.16 of this
2 Article 15.1, unless otherwise authorized by the Commission following a public hearing.

3 (g) Every Person seeking a permit pursuant to this Section 1060.29 shall file an
4 application with the Director no less than seven days before the proposed event and shall pay
5 the filing fee provided in Section 2.26 of this Code. The time limitation for the filing of a permit
6 application may be waived by the Director if the applicant can show that the event or events giving rise
7 to the permit application did not reasonably allow the applicant time to file within the time prescribed
8 and imposition of the time limitations would place an unreasonable restriction on the right of free
9 speech. The applicant shall submit a proposed Security Plan and any other information
10 required for applications under Section 1060.35 as the Director may require. For events taking
11 place in an outdoor area or in both a structure and an outdoor area, the Security Plan shall
12 include additional security personnel to provide adequate security, as determined by the
13 Director, in consultation with the ~~San Francisco~~ Police Department, given the size and nature of
14 the outdoor space. If the event includes the use of Amplified Sound Equipment in an outdoor area,
15 the application shall include the information required under subsection (a)(8) of Section 1060.3.2 of
16 this Article 15.1. Subject to the waiver provision in this subsection (g), ~~The~~ Director shall send the
17 application no later than seven days before the date of the proposed event to those City
18 departments with jurisdiction over the matter, including, as appropriate, the ~~San Francisco~~
19 Police Department, Fire Department, Department of Building Inspection, and Department of
20 Public Health. These departments shall complete all necessary inspections and report their
21 determinations to the Director within three City business days of receiving the application. In
22 addition, the Director shall send all applications to the ~~San Francisco~~ Police Department for
23 such input from the Police Department as it deems appropriate.

24 * * * *

1 (i) The Director shall review applications for a One Time Event Permit according to the
2 standards set forth in Section 1060.5(f) and shall grant a permit unless the Director finds that
3 (1) the application was filed less than seven days before the proposed event *and waiver was*
4 *not granted or warranted, (2) denial is warranted under any of the grounds set forth in Section*
5 *1060.5(f), or (3) another application has been submitted and a permit issued for the same*
6 *premises during the same time period. The Director shall decide whether to grant or deny a*
7 *complete application promptly after the date by which other City departments are required to*
8 *report on the proposed application under § subsection (e). If another application has been*
9 *submitted for the same time and place and is still pending, the Director shall deny the*
10 *application unless the applicant requests that it remain open until the Director has determined*
11 *whether to grant or deny any earlier-filed application. When multiple applicants submit*
12 *complete applications for the same time and place, the Director shall make determinations on*
13 *them in the order in which they were received.*

14 (j) If the permit is denied, the Director shall state in writing the reason for the denial
15 and shall notify the applicant of the determination electronically and either by mail or personal
16 delivery. The Director shall have the discretion to submit any application to the Entertainment
17 Commission for its determination whether to grant or deny a One Time Event Permit under
18 the provisions of this Section 1060.29. *Where the Director submits an application to the*
19 *Commission, and the Commission grants the One Time Event Permit, the Director may, without further*
20 *action by the Commission, approve subsequent applications for the same One Time Event for future*
21 *dates provided that (1) the subsequent application(s) contain no material changes regarding the nature*
22 *or scope of the Event, (2) neither the Commission nor any other City agency has received complaints*
23 *pertaining to the prior Event(s), and (3) any permit conditions imposed by the Commission when*
24 *granting the initial permit are included in any and all such subsequent permits.*

25 * * * *

1 (l) When granting a permit, the Director or Entertainment Commission as appropriate
2 under the procedures of this Section 1060.29, shall require the applicant as a condition of the
3 permit to comply with the approved Security Plan. Notwithstanding the definition of Security
4 Plan in Section 1060~~(#)~~, the Security Plan for a One Time Event Permit shall provide at least
5 one Security Guard for every 100 individuals authorized by the Occupancy Permit. If after
6 approving a Security Plan, the Director receives additional information that reasonably
7 demonstrates that the Security Plan is inadequate, the Director may require the Permittee to
8 make revisions to the Security Plan for the purpose of addressing the safety of persons and
9 property.

10 * * * *

11 **SEC. 1060.29.2. ONE TIME OUTDOOR AMPLIFIED SOUND PERMIT.**

12 *(a) General. This Section 1060.29.2 provides a procedure for permitting a Person to conduct*
13 *One Time Outdoor Amplified Sound on the premises specified in the One Time Outdoor Amplified*
14 *Sound Permit for up to a total of 12 days in a 12-month period at the same premises. Any Person*
15 *seeking to use outdoor amplified sound equipment on a more frequent basis at the same premises must*
16 *either (1) apply for a Fixed Place Outdoor Amplified Sound Permit if Entertainment or Live*
17 *Performance is not furnished or does not occur, or (2) if the Business has a Place of Entertainment*
18 *Permit or Limited Live Performance Permit, apply to the Entertainment Commission for an amendment*
19 *to its existing permit. The One Time Outdoor Amplified Sound Permit is not intended to function as a*
20 *routine substitute for securing a Fixed Place Outdoor Amplified Sound Permit when the Person or*
21 *Business's course of conduct indicates that that permit would be more appropriate to seek.*

22 **(b) Director's Authority.**

23 *(1) Except as otherwise provided in this Section 1060.29.2, the Director may issue One*
24 *Time Outdoor Amplified Sound Permits and applicants may appeal the Director's denial of an*
25 *application to the Entertainment Commission. Notwithstanding the foregoing sentence, the Director*

1 may, in the Director's sole discretion, refer an application for a One-Time Outdoor Amplified Sound
2 Event Permit to the Commission for hearing and a determination.

3 (2) Where the Director submits an application to the Commission, and the Commission
4 grants the One Time Outdoor Amplified Sound Permit, the Director may, without further action by the
5 Commission, approve subsequent applications for the same One Time Outdoor Amplified Sound
6 occurrence for future dates provided that (A) the subsequent application(s) contain no material
7 changes regarding the nature or scope of the event, (B) neither the Commission nor any other City
8 agency has received complaints pertaining to the prior event(s), and (C) any permit conditions imposed
9 by the Commission when granting the initial permit are included in any and all such subsequent
10 permits.

11 **(c) Permit Application.**

12 (1) Every Person seeking a permit pursuant to this Section 1060.29.2 shall file an
13 application on a form provided by the Commission with the Director no less than seven days before the
14 proposed use, and shall pay the filing fee provided in Section 2.26 of this Code. The time limitation for
15 the filing of a permit application may be waived by the Director if the applicant can show that the event
16 or events giving rise to the permit application did not reasonably allow the applicant time to file within
17 the time prescribed and imposition of the time limitations would place an unreasonable restriction on
18 the right of free speech.

19 (2) The application shall include the information required under subsection (a)(8) of
20 Section 1060.3.2 of this Article 15.1 with regard to the use of outdoor Amplified Sound Equipment.

21 (2) The Director shall send the application to the Police Department for input, which
22 the Police Department shall provide to the Director within three City business days of receiving the
23 application.

24 **(d) Duration and Number of Permits.**

1 (1) 24-Hour Duration. Each One Time Outdoor Amplified Sound Permit shall issue for
2 no longer than one 24-hour period. One Time Outdoor Amplified Sound Permits may not be issued for
3 the same premises for consecutive 24-hour periods without a six-hour break between the end time for
4 the first permit and the start time for the second permit.

5 (2) No More Than 12 Days Per Year For The Same Premises. There shall be no limit
6 on the number of One Time Outdoor Amplified Sound Permits a Person may obtain, provided that no
7 more than one permit per month may be issued for the same premises. Notwithstanding this restriction,
8 One Time Outdoor Amplified Sound Permits may be issued for events that will occur on consecutive
9 days on the same premises or on non-consecutive days within a 10-day period on the same premises,
10 but events may not occur for more than a total of 12 days on the same premises within any 12-month
11 period.

12 (3) Multiple Permits on the Same Day. A Person may obtain more than one One Time
13 Outdoor Amplified Sound Permit for the same day. In such an instance, in considering whether to
14 grant the permit(s) and/or place conditions on the permit(s), the Director, or Entertainment
15 Commission as appropriate in the Director's stead under subsection (b)(1), shall review each permit
16 application to ensure that the standards for granting the permit(s) are met and to determine what
17 conditions, if any, may be appropriate to place on the permit(s). In addition, if the applicant submits
18 an application for more than one One Time Outdoor Amplified Sound Permits for the same day less
19 than 40 days prior to the day of the event, the Director or Entertainment Commission may disapprove
20 the application(s) on the ground that the applicant filed too late to provide adequate time to evaluate
21 the application(s) so as to determine whether the permit(s) should be granted and/or whether
22 conditions should be placed on the permit(s).

23 (e) Grant or Denial of Permit.

24 (1) The Director, or Entertainment Commission as appropriate in the Director's stead
25 under subsection (b)(1), shall review applications for a One Time Outdoor Amplified Sound Permit

1 according to the standards set forth in Section 1060.5.2(f) and (g) and shall grant a permit unless the
2 Director finds that (A) the application was filed less than seven days before the proposed event and a
3 waiver was not granted or warranted, (B) denial is warranted under any of the grounds set forth in
4 Section 1060.5.2(f), or (C) another application has been submitted and a permit issued for the same
5 premises during the same time period. If another application has been submitted for the same time and
6 place and is still pending, the Director shall deny the application unless the applicant requests that it
7 remain open until the Director has determined whether to grant or deny any earlier-filed application.
8 When multiple applicants submit complete applications for the same time and place, the Director shall
9 make determinations on them in the order in which they were received.

10 (2) If the permit is denied, the Director shall state in writing the reason for the denial
11 and shall notify the applicant of the determination electronically and either by mail or personal
12 delivery.

13 **(f) Conditions.**

14 (1) When granting a One Time Outdoor Amplified Sound Permit, the Director, or
15 Entertainment Commission as appropriate in the Director's stead under subsection (b)(1), shall require
16 the applicant as a condition of the permit to comply with the outdoor amplified sound regulations in
17 Section 1060.16 of this Article 15.1. If a permit applicant seeks permit conditions that diverge from
18 any of the aforementioned regulations, the application must be heard and decided by the Commission,
19 not the Director. Once the Commission has granted a One Time Outdoor Amplified Sound Event
20 Permit to a particular Permittee for a particular special event, the Director may, on subsequent
21 occasions, issue one or more One Time Outdoor Amplified Sound Event Permits to the same Permittee
22 for the same event at the same location with the same permit conditions previously approved by the
23 Commission.

24 (2) The Director or the Entertainment Commission may impose additional reasonable
25 restrictions on the time, place, and manner of the use of amplified sound. The Director or

1 Entertainment Commission shall in no event impose conditions pursuant to this Section 1060.29.2
2 which are designed to limit the content of First Amendment expression engaged in by persons affected
3 by the permit or which unreasonably interfere with the right of free speech.

4 **(g) Appeal to Entertainment Commission.**

5 (1) An applicant for a One Time Amplified Sound Permit who files an application at
6 least 40 days before the date of the proposed event shall have the right to appeal the Director's denial
7 of the application to the Entertainment Commission. The Director shall act on applications filed at
8 least 40 days before the event within a time period that allows for an appeal to the Commission. The
9 applicant may appeal the Director's decision to the Entertainment Commission by filing a written
10 request for review within five City business days of the Director's decision. The Commission shall hear
11 and decide the appeal as expeditiously as possible, but in no event later than 21 days after the date that
12 the applicant filed the appeal.

13 (2) Applicants who do not file at least 40 days before the proposed event shall have no
14 right to appeal a denial of the application to the Entertainment Commission unless the Commission has
15 sufficient time to schedule and provide notice of the hearing on the matter for a regularly scheduled
16 meeting. If the applicant has filed the application less than 40 days before the proposed event and the
17 Commission does not have sufficient time to provide the required public notice of the appeal for a
18 regularly scheduled meeting, the Commission is not required to consider the matter. When an applicant
19 files an application less than 40 days before the proposed event, the Director shall inform the applicant
20 that there may be insufficient time for the applicant to appeal the Director's denial to the Commission.

21 **(h) Non-Transferable.** One Time Amplified Sound Permits are not transferable. The Permit is
22 valid only for the Person to whom it is issued for the premises specified in the permit.

23 **(i) Judicial Review.** An applicant may seek immediate judicial review of an adverse decision
24 by the Director under this Section 1060.29.2 pursuant to California Code of Civil Procedure Section
25 1085 or Section 1094.8, as those provisions may be amended, including any successor provisions, or

1 any other procedure provided by law. The applicant may, but is not required to, exhaust his or her
2 administrative remedies before the Entertainment Commission and Board of Appeals.

3
4 Section 5. Articles 15.2, 15.3, 15.4, and 15.5 of the Police Code are hereby amended
5 by revising Sections 1070.28, 1071.4, 1072.39, and 1073.30, to read as follows:

6 **SEC. 1070.28. APPROVAL REQUIRED FOR SECURITY PLANS.**

7 * * * *

8 (e) For the purpose of calculating compliance with the component of a Security Plan
9 that requires a ratio of one Security Guard to a specific number of individuals, a Security
10 Guard may be counted toward the ratio for only one Place of Entertainment at any one time.
11 This calculation rule applies whether the required ratio of Security Guard to individuals is
12 based solely on the definition of Security Plan in Section 1060~~(e)~~, is otherwise required by
13 this Article, or is a condition of the Place of Entertainment permit.

14 **SEC. 1071.4. EXCEPTIONS.**

15 This Article does not apply to: (a) a theater, concert hall, or similar establishment which
16 is primarily devoted to theatrical performances; (b) any act authorized or prohibited by any
17 state statute; (c) entertainment as defined in Section 1060~~(e)~~, Article 15.1 of this Code, and as
18 regulated by Section 1060.9.1 of said Code.

19 **SEC. 1072.39. EXEMPTIONS CONTINUED.**

20 This Article shall not apply to:

21 (a) A theater, concert hall, or similar establishment which is primarily devoted to
22 theatrical performances;

23 (b) Any act authorized or prohibited by any state statute;

24 (c) Entertainment as defined in Section 1060~~(e)~~, Article 15.1 of this Code, and as
25 regulated by Section 1060.9.1 of said Code.

1 **SEC. 1073.30. EXEMPTIONS CONTINUED.**

2 This Article shall not apply to any of the following:

3 (a) A school or institute approved by the Superintendent of Public Instruction
4 pursuant to the provisions of Section 29007.5 of the *California* Education Code ~~of the State of~~
5 *California*.

6 (b) A theater, concert hall, or similar establishment which is primarily devoted to
7 theatrical performances.

8 (c) Any act authorized or prohibited by state statute.

9 (d) Entertainment as defined in Section 1060~~(e)~~ of Article 15.1 of this Code and as
10 regulated by Section 1060.9.1 of said Code.

11
12 Section 6. Article 29 of the Police Code is hereby amended by revising Sections 2916
13 and 2917, to read as follows:

14 **SEC. 2916. ENFORCEMENT.**

15 The Director of Public Health may enforce the provisions of Section 2904, 2909, and
16 2912 of this Article 29.

17 The Department of Building Inspection may enforce the provisions of Sections 2907
18 and 2908 of this Article insofar as said provisions relate to construction operations conducted
19 on private property under appropriate permits issued pursuant to the San Francisco Building
20 Code, Housing Code, Electrical Code, and Plumbing Code. Insofar as these provisions relate
21 to construction operations conducted on publicly-owned property subject to the police power
22 of the City and County of San Francisco, the Department of Public Works may enforce the
23 provisions of Sections 2907 and 2908 of this Article.

24 The Executive Director of the Entertainment Commission may enforce noise standards
25 associated with licensed Places of Entertainment, licensed Limited Live Performance Locales,

1 licensed Fixed Place Outdoor Amplified Sound Locales, permitted One Time Events, permitted One
2 Time Outdoor Amplified Sound Permits, permitted Sound Truck Permits, or other location or activity
3 subject to regulation by the Entertainment Commission or its Director.

4 The Chief of Police or his or her designee ("Chief of Police") shall also enforce the
5 provisions of Section 2913 of this Article. The Chief of Police shall make law enforcement
6 activities related to Unenclosed Tour Buses under Section 2913 a priority for one year after
7 the effective date of the ordinance enacting that Section.

8 The Chief of Police may enforce Section 2909 as well as the provisions of this Article that
9 relate to noise created by humans or any other noise source not specifically assigned or
10 designated to another Department or Agency.

11 **SEC. 2917. VIOLATIONS.**

12 (a) Criminal Penalties. Any person violating any of the provisions of this Article 29 shall
13 be deemed guilty of an infraction or misdemeanor. When charged as an infraction, and upon
14 conviction thereof, such person shall be fined in an amount not exceeding (1) \$100 for a first
15 violation of this Article; (2) \$200 for a second violation of this Article; and (3) up to \$300 for
16 each additional violation of this Article within one year of the date of a second or subsequent
17 violation. Each day such violation is committed or permitted to continue shall constitute a
18 separate offense and shall be punishable as such.

19 * * * *

20
21 Section 7. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.


1 Section 8. Undertaking for the General Welfare. In enacting and implementing this
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
4 is liable in money damages to any person who claims that such breach proximately caused
5 injury.

6
7 Section 9. Severability. If any section, subsection, sentence, clause, phrase, or word of
8 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
9 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
10 affect the validity of the remaining portions or applications of the ordinance. The Board of
11 Supervisors hereby declares that it would have passed this ordinance and each and every
12 section, subsection, sentence, clause, phrase, and word not declared invalid or
13 unconstitutional without regard to whether any other portion of this ordinance or application
14 thereof would be subsequently declared invalid or unconstitutional.

1 Section 10. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the "Note" that appears under
6 the official title of the ordinance.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

By:  _____
BRADLEY A. RUSSI
Deputy City Attorney
n:\legana\as2017\1400425\01185809.doc

LEGISLATIVE DIGEST

[Police Code - Outdoor Amplified Sound Permits]

Ordinance amending the Police Code to recodify and revamp permit procedures for outdoor amplified sound by providing for distinct permits for Fixed Place Outdoor Amplified Sound, One Time Outdoor Amplified Sound, and Sound Trucks, and establishing fees for those permits, while also providing amplified sound requirements for Place of Entertainment and Limited Live Performance permits; to impose a fee for Sound Monitoring; to increase the fee for One Time Event permits; to declare operation of a business without these various permits (when required) to be a public nuisance; and to strengthen penalties for permit-related violations and noise violations; and making environmental findings.

Existing Law

Article 1, Sections 43 through 48 of the Police Code authorize the Entertainment Commission to issue permits for the use of loudspeakers or sound amplifying equipment outdoors, and for the use of sound trucks. Section 2.26 of the Police Code sets the filing fees for permits issued by the Entertainment Commission, and Section 2.27 sets the annual license fees for Entertainment Commission permits.

Article 15.1 of the Police Code authorizes the Entertainment Commission to issue permits for Places of Entertainment, Limited Live Performance Locales, and for One Time Events.

Amendments to Current Law

The proposed ordinance modifies the Entertainment Commission's permitting scheme to comprehensively address the use of outdoor amplified sound equipment in connection with activities permitted by the Entertainment Commission. The ordinance also makes a number of other minor changes.

Changes to Existing Permit Scheme

Regarding the Entertainment Commission's existing authority to grant Place of Entertainment, Limited Live Performance, and One Time Event permits, the proposed ordinance requires that a permit application specify the nature and extent of any proposed use of outdoor amplified sound equipment. The ordinance grants the Entertainment Commission authority to allow outdoor amplified sound in connection with granting these permits.

As to Sound Truck Permits, which govern the use of amplified sound equipment when attached to a motor vehicle, the proposed ordinance renames the permit and moves the permitting scheme from Article 1, Sections 46-48 of the Police Code to Article 15.1, where the other permits under the Entertainment Commission's jurisdiction are codified. The ordinance

modifies the process for obtaining a Sound Truck permit to conform to the processes for obtaining other permits from the Entertainment Commission and makes minor modifications to the regulations applicable to activities conducted under Sound Truck permits.

New Types of Amplified Sound Permits

The proposed ordinance creates two new types of permits for the use of amplified sound equipment outdoors: Fixed Place Outdoor Amplified Sound Permits and One Time Outdoor Amplified Sound Permits. These permits would allow the use of amplified sound equipment outdoors where it is not connected to a place of entertainment or offered in connection with an entertainment event. If outdoor amplified sound is contemplated in connection with a location or event where entertainment is offered, the applicant must seek a Place of Entertainment Permit, Limited Live Performance Permit, or One Time Event Permit, as applicable. These new permits replace the existing Loudspeaker Permit currently codified in Article 1, Sections 43-45.

A Fixed Place Outdoor Amplified Sound Permit would allow a permittee, such as a business or restaurant that does not have a Place of Entertainment Permit or Limited Live Performance Permit, to place amplified sound equipment outdoors on a permanent basis, if specified conditions are satisfied and regulations are followed.

A One Time Outdoor Amplified Sound Permit would allow the permittee to use amplified sound equipment outdoors in an event or gathering that does not also involve entertainment. If the proprietor of a premises desires to offer outdoor amplified sound on more than 12 occasions in a 12-month period, the applicant must seek a Fixed Place Outdoor Amplified Sound Permit rather than seeking individual One Time Outdoor Amplified Sound Permits.

The ordinance establishes the process for obtaining these permits and the standards the Director or Commission applies in reviewing permit applications.

Amplified Sound Regulations

The proposed ordinance creates standards that apply to any permit issued by the Entertainment Commission that authorizes outdoor amplified sound. These regulations include hours of operation and volume regulations.

Other Changes

Fees – The Commission or the Director may condition any permit involving amplified sound on the requirement that sound monitoring be performed by a Commission sound inspector. The proposed ordinance establishes a sound monitoring fee for that purpose. The ordinance also sets fees for the newly created permits, increases the One Time Event permit fee, and removes the concession fee for itinerant shows.

Fee Exemption and Waiver – The proposed ordinance creates an exemption from fees for City-funded One Time Event Permits and One Time Outdoor Amplified Sound Permits. The

ordinance also gives the Director the authority to waive fees for One Time Event Permits and One Time Outdoor Amplified Sound Permits where the applicant shows financial hardship or where the applicant is a nonprofit, neighborhood organization, or similar community-based group.

Penalties – The proposed ordinance revises the criminal penalties for second and subsequent violations of Section 49 and Article 15.1 in a 12-month period to require that such violations be charged as misdemeanors. It also revises the criminal penalties available under Article 29, which regulates noise, to add the possibility of charging a violation as a misdemeanor. As to administrative penalties, the ordinance provides the Director authority to pursue collection of unpaid administrative citations, and the City Attorney may pursue such unpaid penalties in a civil action. As to civil penalties, the City Attorney is granted authority to seek an injunction in a civil action brought to enforce Article 15.1.

Declaration of Public Nuisance – The ordinance declares that a business operating without a permit, when such permit is required, is deemed a public nuisance and may be subject to enforcement by the Director, the Commission, or may be abated through a civil action.

Changes to Definitions in Section 1060 – The proposed ordinance also includes non-substantive revisions to existing definitions in Section 1060.

n:\legana\as2014\1400425\00924087.doc