

DRAFT FOR DISCUSSION PURPOSES ONLY
ORDINANCE NO.

FILE NO.

1 [Regulation of Live Adult Entertainment Businesses.]

2
3 Ordinance (I) amending the San Francisco Police Code by: (1) adding a new Article 15.7
4 (a) modernizing the regulation and permitting of live adult entertainment businesses for
5 the purposes of protecting the health, safety and welfare of exotic dancers and the
6 public, and to protect exotic dancers from conditions at live adult entertainment
7 businesses in San Francisco that foster sexual and economic exploitation of women
8 and coerce acts of prostitution, and (b); imposing an application fee and annual license
9 fee for Live Adult Entertainment Business Permits; (2) amending Article 11.2 to
10 conform the regulation of Adult Theaters and Adult Bookstores with the enactment of
11 Article 15.7; (3) amending Article 15.1 to conform the regulation of Places of
12 Entertainment with the enactment of Article 15.7; (4) amending Article 15.2 to conform
13 the regulation of Extended Hours Premises with the enactment of Article 15.7; and (5)
14 repealing Article 15.4 regulating Encounter Studios; (II) amending the San Francisco
15 Business and Tax Regulations Code to conform administrative provisions for the
16 collection of permit fees with the enactment of Article 15.7; and (III) making findings
17 pursuant to the California Environmental Quality Act, Public Resources Code Section
18 21080(b)(8)(A), that the regulatory fees imposed by this ordinance are not a "project"
19 and that such fees are imposed for the purpose of meeting operating expenses of the
20 City and County of San Francisco, including employee wage rates, fringe benefits and
21 other direct and indirect overhead charges, attributable to the implementation and
22 enforcement of this Ordinance.

23 Note: Additions are single-underline italics Times New Roman;
24 deletions are ~~strikethrough italics Times New Roman~~.
Board amendment additions are double underlined.
25 Board amendment deletions are ~~strikethrough normal~~.

1 used for 'masturbation, fondling, and fellatio by patrons on the premises of the store ...'"); United
2 States Court of Appeals 9th Circuit decisions, including but not limited to: Gammoh v. City of La
3 Habra (9th Cir., 2005) 395 F.3d 1114; Topanga Press, Inc. v. City of Los Angeles, 989 F.2d 1524
4 (1993); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); Colacurcio v. City of Kent, 163 F.3d
5 545 (9th Cir. 1998); and Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); several
6 California cases including but not limited to: Tily B., Inc. v. City of Newport Beach, 69 Cal.App.4th 1
7 (1998); City of National City v. Wiener, 3 Cal.4th 832 (1993); People v. Superior Court (Lucero) 49
8 Cal.3d 14 (1989); and City of Vallejo v. Adult Books, et al., 167 Cal.App.3d 1169 (1985); and other
9 federal cases including but not limited to: Fantasyland Video, Inc. v. County of San Diego (2005)
10 375 F.Supp.2d 1094; Lakeland Lounge of Jackson, Inc. v. City of Jacksonville (5th Cir. 1992) 973
11 F.2d 1255; Hang On, Inc. v. City of Arlington (5th Cir. 1995) 65 F.3d 1248; Mitchell v. Commission on
12 Adult Entertainment (3rd Cir. 1993) 10 F.3d 123; International Eateries v. Broward County (11th Cir.
13 1991) 941 F.2d 1157; Star Satellite, Inc. v. City of Biloxi (5th Cir. 1986) 779 F.2d 1074; Wall
14 Distributors v. Newport News (1986) 782 F.2d 1165; Dumas v. City of Dallas (1986) 648 F.Supp.
15 1061; Ellwest Stereo Theatres, Inc. v. Wenner (1982) 681 F.2d 1243 (interior configuration
16 requirements providing for open booths with direct line of sight from a manager's station upheld);
17 Bamon Corp. v. City of Dayton (6th Cir. 1991) 923 F.2d 470 (same; no "glory holes"); Pleasureland
18 Museum, Inc. v. Beutter (7th Cir. 2002) 288 F.3d 988 (open booth restrictions are content-neutral and
19 aimed at secondary effects); Matney v. County of Kenosha (7th Cir. 1996) 86 F.3d 692 (open booth
20 requirement is constitutional time, place and manner regulation); N.W. Enterprises, Inc. v. City of
21 Houston (S.D. Texas 1998), 27 F.Supp.2d 754; Scope Pictures of Missouri, Inc. v. City of Kansas City
22 (8th Cir. 1998) 140 F.3d 1201 (maintaining premises "clean and sanitary" so as to be free of semen,
23 urine, feces, needles and trash is not unconstitutionally vague); Libra Books, Inc. v. City of Milwaukee
24 (E.D. Wis. 1993) 818 F.Supp. 263; Doe v. City of Minneapolis (8th Cir. 1990) 898 F.2d 612 (rejecting
25 argument of First Amendment violation based on adverse economic impact); Berg v. Health and Hosp.

1 (d) The Commission adopted a resolution urging the Board of Supervisors to (1) prohibit
2 the owner or operator of any establishment in which women provide live nude or semi-nude
3 entertainment to charge, require, or demand that the women pay any fee, commission, tip, or any other
4 consideration as a condition or prerequisite for providing said entertainment; (2) require owners and
5 operators of strip clubs to post, in a conspicuous manner in an open and visible location within the
6 club, and in an area to which patrons have access, a current comprehensive schedule of compensation
7 for exotic dances; (3) require operators to notify the Commission on the Status of Women when they
8 make any change to the compensation schedule; and (4) prohibit private, non-transparent booths or
9 rooms in establishments in which women provide live nude or semi-nude entertainment.

10 (e) The Board of Supervisors has considered such testimony and the entire record of the
11 hearings held by the Commission, and finds the testimony that the policies, practices, and working
12 conditions of exotic dancers at many Live Adult Entertainment Businesses in San Francisco foster
13 prostitution, coerced prostitution, and sexual assault, as well as illegal and unsafe sexual activity on
14 the premises of the business, to the detriment of the exotic dancers and the general public. The record
15 of the hearings before the Commission is contained in Board of Supervisors File No. _____ and
16 available from the Clerk of the Board of Supervisors.

17 (f) The Board of Supervisors takes legislative notice of the facts recited in the case of Kev,
18 Inc. v. Kitsap County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in
19 secondary effects such as prostitution and other law enforcement problems.

20 (g) The Board of Supervisors finds that existing regulations for Encounter Studio Permits
21 contained in the San Francisco Police Code and zoning and location criteria do not adequately protect
22 the health, safety, and welfare of exotic dancers, patrons of Live Adult Entertainment Businesses and
23 the public, and thus the requirements with respect to the ownership and operation of Live Adult
24 Entertainment Businesses set forth in this Article are in the public interest. The Board further finds
25 that there are no existing Encounter Studio Permits issued under Article 15.4, and that such regulatory

1 (i) Licensing and other police power regulations are legitimate, reasonable means of
2 accountability to help protect exotic dancers from operating and working conditions controlled by
3 operators of Live Adult Entertainment Businesses that encourage prostitution, assaults on exotic
4 dancers, and sexual and economic exploitation of exotic dancers.

5 (j) Nothing in this ordinance is intended to authorize, legalize, or permit the establishment,
6 operation, or maintenance of any business, building, or use which violates any City ordinance or any
7 statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual
8 conduct, or lewdness.

9 (k) The Board of Supervisors declares that the restrictions imposed pursuant to this
10 ordinance are part of a regulatory licensing process, and do not constitute a criminal offense.
11 Notwithstanding any other provision of the San Francisco Police Code, the City does not impose a
12 criminal penalty for violations of the provisions of this ordinance. The City adopts these limitations as
13 a condition of issuance and maintenance of a permit to operate a Live Adult Entertainment Business
14 issued pursuant to this Article.

15 (l) Enclosed or concealed booths and dimly-lit areas within Live Adult Entertainment
16 Businesses greatly increase the potential for misuse of the premises, including prostitution, coerced
17 prostitution, sexual assaults, and unlawful conduct of a type which facilitates transmission of disease.
18 Requirements that all indoor areas to which patrons have access (except for bathrooms) be open to
19 view from publicly accessible areas on the premises, and that adequate lighting be provided, are
20 necessary in order to reduce the opportunity for such misuse, and therefore the incidence of illegal
21 conduct within Live Adult Entertainment Businesses, and to facilitate the inspection of the interior of
22 the premises thereof by law enforcement personnel and City employees responsible for the regulation
23 of such establishments.

24 (m) The Live Adult Entertainment Business Development and Performance Standards set
25 forth in Section 1074.63 of this Article are consistent with the City's commitment to the principles of the

1 **(b) "Live Adult Entertainment Business Operator" and "Operator" mean a person who**
2 **owns, supervises, manages, inspects, directs, organizes, controls, or in any other way is responsible for**
3 **or in charge of the premises of a Live Adult Entertainment Business or the conduct or activities**
4 **occurring on the premises thereof.**

5 **(c) "Applicant" means a person who is required to file an application for a permit under**
6 **this Article, including an individual owner, managing partner, officer of a corporation, or any other**
7 **operator, manager, employee, or agent of a Live Adult Entertainment Business.**

8 **(d) "City" means the City and County of San Francisco.**

9 **(e) "Distinguished or characterized by an emphasis upon" means and refers to the dominant**
10 **or essential theme of the object described by such phrase. For instance, when the phrase refers to**
11 **performances "which are distinguished or characterized by an emphasis upon" the depiction or**
12 **description of specified sexual activities or specified anatomical areas, the performances so described**
13 **are those whose dominant or predominant character and theme are the depiction of the enumerated**
14 **sexual activities or anatomical areas. See Pringle v. City of Covina (1981) 115 Cal.App.3rd 151.**

15 **(f) "Entertainment Commission" means the San Francisco Entertainment Commission**
16 **established under Chapter 90 of the San Francisco Administrative Code and Section 4.117 of the San**
17 **Francisco Charter. "Entertainment Commission" also means the Executive Director of the**
18 **Entertainment Commission or his or her designee for purposes of exercising such powers and**
19 **discharging such duties of the Entertainment Commission under this Article as the Entertainment**
20 **Commission may delegate to the Executive Director.**

21 **(g) "Nudity" or a "state of nudity" means the showing of the human male or female genitals,**
22 **pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with**
23 **less than a fully opaque covering of any part of the nipple.**

24 **(h) "Operate a Live Adult Entertainment Business" means the supervising, managing,**
25 **inspecting, directing, organizing, controlling, or in any way being responsible for or in charge of the**

1 (o) "Specified sexual activities" means and includes any of the following, whether
2 performed directly or indirectly through clothing or other covering: (1) The fondling or other erotic
3 touching of human genitals, pubic region, buttocks, anus, or female breast; (2) Sex acts, actual or
4 simulated, including intercourse, oral copulation, or sodomy; (3) Masturbation, actual or simulated;
5 (4) Excretory functions as part of or in connection with any of the other activities described in (1)
6 through (3) of this subsection.

7
8 SEC. 1074.54. PERMITS REQUIRED.

9 (a) It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be
10 engaged in, conducted or carried on, in or upon any premises in the City and County of San Francisco,
11 the operation of a Live Adult Entertainment Business unless the person first obtains and continues to
12 maintain in full force and effect a Permit from the San Francisco Entertainment Commission as
13 required under this Article. Every person who proposes to establish, maintain, operate, or conduct a
14 Live Adult Entertainment Business in the City and County of San Francisco shall file an application
15 with the Entertainment Commission upon a form provided by the Entertainment Commission and shall
16 pay a filing fee, as set forth in Police Code Section 2.26, which shall not be refundable.

17 (b) Except for persons authorized to commence operating a Live Adult Entertainment
18 Business as provided in Section 1074.56(d) and Applicants continuing to operate a Live Adult
19 Entertainment Business during the 180-day grace period under Section 1074.58, any person operating
20 a Live Adult Entertainment Business in violation of this Section shall be subject to civil penalties as
21 provided in Section 1074.69.

22
23 SEC. 1074.55. APPLICATIONS.

24 (a) Permits are nontransferable, except in accordance with this Article. All applications for
25 a Permit shall include the following information:

1 (f) If the applicant is an individual, the ownership interest of the applicant and his or her
2 title and position in the Live Adult Entertainment Business.

3 (g) A sketch or diagram showing the interior configuration of the premises, including a
4 statement of the total floor area occupied by the Live Adult Entertainment Business. The sketch or
5 diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with
6 marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

7 (h) A certificate and straight-line drawing prepared within thirty (30) calendar days prior
8 to application depicting the building and the portion thereof to be occupied by the Live Adult
9 Entertainment Business, and: (1) the property line of any other Live Adult Entertainment Business
10 within 1000 feet of the primary entrance of the Live Adult Entertainment Business for which a Permit is
11 requested; and (2) the property lines of any church, school, park, residential zone or use within 1000
12 feet of the primary entrance of the Live Adult Entertainment Business.

13 (i) A diagram of the off-street parking areas and premises entries of the Live Adult
14 Entertainment Business showing the location of the lighting system required by this Article.

15 (j) If the Entertainment Commission determines that the applicant has completed the
16 application improperly, or otherwise deems the application to be incomplete, the Entertainment
17 Commission shall, within ten (10) calendar days of receipt of the original application, notify the
18 applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten
19 (10) calendar days or less to submit a complete application. In addition, the applicant may request an
20 extension, not to exceed ten (10) calendar days, of the time for the Entertainment Commission to act on
21 the application. The time period for granting or denying a Permit shall be stayed during the period in
22 which the applicant is granted an extension of time.

23 (k) The fact that an applicant possesses other types of state or City permits or licenses does
24 not exempt the applicant from the requirement of obtaining a Permit.

1 the public hearing. The Entertainment Commission may continue the public hearing provided the
2 hearing is concluded and the final decision on the application is made within thirty (30) calendar days
3 of receipt of the completed application. The Entertainment Commission shall notify the applicant, and
4 any other interested party who has made a written request, of the final decision as follows:

5 (1) The Entertainment Commission shall write or stamp "Granted" or "Denied" on
6 the application and date and sign such notation.

7 (2) If the application is denied, the Entertainment Commission shall attach to the
8 application a statement of the reasons for denial.

9 (3) If the application is granted, the Entertainment Commission shall attach a
10 Permit to the application.

11 (4) The application as granted or denied and the Permit, if any, shall be placed in
12 the United States mail, first class postage prepaid, addressed to the applicant at the mailing address
13 stated in the application.

14 (c) The Entertainment Commission shall grant the application and issue the Permit upon
15 findings that the proposed business meets the location criteria of San Francisco Planning Code; unless
16 the application is denied for one or more of the reasons set forth in Section 1074.57.

17 (d) If the Entertainment Commission neither grants nor denies the application within thirty
18 (30) calendar days after it is stamped as received (except as provided in subsection (b) of this Section
19 or Section 1074.55(j)), the applicant may begin operating the Live Adult Entertainment Business for
20 which the Permit was sought, subject to strict compliance with the requirements of this Article.

21
22 SEC. 1074.57. PERMIT DENIAL.

23 The Entertainment Commission shall deny an application for a Permit for any of the following
24 reasons:

1 (a) The applicant, his or her employee, agent, partner, director, officer, shareholder, or
2 manager has knowingly made any false, misleading or fraudulent statement of material fact in the
3 application for a Live Adult Entertainment Business Permit.

4 (b) An applicant is under eighteen (18) years of age.

5 (c) The required application fee has not been paid.

6 (d) The Live Adult Entertainment Business or the building, structure, equipment, or location
7 thereof does not comply with applicable fire, safety, health, and zoning requirements.

8 (e) A Permit previously issued to the applicant, his or her employee, agent, partner,
9 director, officer, shareholder, or manager was revoked less than one year before the submission of the
10 application for a Permit.

11 (f) The applicant knowingly violated Sections 201, 202, 203, 221, 222, 223, 226, 351, 353,
12 432.5, 450, 510, 1174, 1198 or 2802 of the California Labor Code while operating a Live Adult
13 Entertainment Business less than one year before the submission of the application for a Permit, as
14 determined in a final order or decision of the California Labor Commission or a court of competent
15 jurisdiction.

16
17 SEC. 1074.58. ANNUAL RENEWAL.

18 Each Permit shall expire one (1) year from the date of issuance, and may be renewed only by
19 filing with the Entertainment Commission a written request for renewal, accompanied by the annual
20 permit fee, and a copy of the Permit to be renewed. The request for renewal shall be made at least
21 forty five (45) calendar days before the expiration date of the Permit. When made less than forty five
22 (45) calendar days before the expiration date, the expiration of the Permit will not be stayed.
23 Applications for renewal shall be acted on as provided herein for action upon applications for Permits.
24
25

1 SEC. 1074.59. TRANSFER OF PERMITS.

2 (a) A permittee may not operate a Live Adult Entertainment Business under the authority of
3 a Permit at any place other than the address of the business stated in the application for the Permit.

4 (b) A permittee may not transfer ownership or control of a Live Adult Entertainment
5 Business or transfer a Permit to another person unless and until the transferee obtains an amendment
6 to the Permit from the Entertainment Commission stating that the transferee is now the permittee. Such
7 an amendment may be obtained only if the transferee files an application with the Entertainment
8 Commission in accordance with Sections 1074.55 and 1074.56, accompanies the application with a
9 transfer fee in an amount set by ordinance of the Board of Supervisors, and the Entertainment
10 Commission determines in accordance with this Article that the transferee would be entitled to the
11 issuance of an original Permit.

12 (c) No Permit may be transferred when the Entertainment Commission has notified the
13 permittee that the Permit has been or may be suspended or revoked.

14 (d) Any attempt to transfer a Permit either directly or indirectly in violation of this section is
15 hereby declared void, and the Permit shall be deemed revoked.

16
17 SEC. 1074.61. SUSPENSION OR REVOCATION OF PERMITS.

18 The Entertainment Commission may suspend or revoke a Permit in accordance with the
19 procedures and standards of this Section.

20 (a) On determining that grounds for Permit revocation may exist, the Entertainment
21 Commission shall furnish written notice of the proposed suspension or revocation to the Permittee.
22 Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the
23 hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support
24 thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the
25 Permittee, or shall be delivered to the Permittee personally, at least ten (10) calendar days prior to the

1 (ii) Use of the establishment as a place where unlawful solicitations for
2 sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

3 (iii) Any conduct constituting a criminal offense that requires registration
4 under Section 290 of the California Penal Code.

5 (iv) The occurrence of acts of lewdness, assignation, or prostitution,
6 including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision
7 b of Section 647 of the California Penal Code.

8 (v) Any act constituting a violation of provisions in the California Penal
9 Code relating to obscene matter or distribution of harmful matter to minors, including
10 but not limited to Sections 311 through 313.4.

11 (vi) Any violation of Sections 201, 202, 203, 221, 222, 223, 226, 351, 353,
12 432.5, 450, 510, 1174, 1198 or 2802 of the California Labor Code, if such determination
13 is set forth in a final order or decision of the California Labor Commission, San
14 Francisco Office of Labor Standards Enforcement, or court of competent jurisdiction.

15 (vii) Any conduct prohibited by this Article.

16 (3) Failure to abide by any disciplinary action previously imposed by an appropriate
17 City official.

18 (4) Failure to pay any final judgment or award for unpaid wages against the
19 Permittee rendered by the California Labor Commission, San Francisco Office of Labor Standards
20 Enforcement, federal or state administrative agency or a court of competent jurisdiction.

21 (c) After holding the hearing in accordance with the provisions of this Section, if the
22 Entertainment Commission finds and determines that there are grounds for disciplinary action, based
23 upon the severity of the violation, the Entertainment Commission shall impose one of the following: (1)
24 A warning; (2) Suspension of the Permit for a specified period not to exceed six months; (3) Revocation
25 of the Permit. The Entertainment Commission may impose reasonable conditions upon the Permit in

1 SEC. 1074.63. LIVE ADULT ENTERTAINMENT BUSINESS DEVELOPMENT AND
2 PERFORMANCE STANDARDS.

3 A Live Adult Entertainment Business shall comply with all of the following:

4 (a) Maximum occupancy load, fire exits, aisles, and fire equipment shall be regulated,
5 designed and provided in accordance with the Fire Department and building regulations and standards
6 adopted by the City and County of San Francisco.

7 (b) No person may operate a Live Adult Entertainment Business in a manner that permits
8 the observation of any material or activities depicting, describing or relating to "Specified Sexual
9 Activities" or "Specified Anatomical Areas" from any public way or from any location outside the
10 building or area of such establishment. This provision shall apply to any display, decoration, sign,
11 show window, or other opening. No exterior door or window on the premises shall be propped or kept
12 open at any time while the business is open, and any exterior windows shall be covered with opaque
13 covering at all times.

14 (c) All off-street parking area and premise entries of the Live Adult Entertainment Business
15 shall be illuminated from dusk to two hours after closing hours of operation with a lighting system
16 which provides an average maintained horizontal illumination of one (1) foot candle of light on the
17 parking surface and/or walkways. The required lighting level is established in order to provide
18 sufficient illumination of the parking areas and walkways serving the business for the personal safety of
19 patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting
20 shall be shown on the required sketch or diagram of the premises.

21 (d) The premises within which the Live Adult Entertainment Business is located shall
22 provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be
23 audible anywhere on any adjacent property or public right-of-way or within any other building or other
24 separate unit within the same building.

25

1 evidence of improper maintenance and inadequate sanitary controls; repeated instances of such
2 conditions may justify suspension or revocation of the Permit.

3 (k) All areas of the Live Adult Entertainment Business shall be illuminated at a minimum of
4 the 5 foot-candles, minimally maintained, and evenly distributed at ground level, except during
5 performances, at which times lighting shall be at least 2 foot-candles minimally maintained and evenly
6 distributed at ground level.

7 (l) The Live Adult Entertainment Business shall provide and maintain separate rest room
8 facilities for male patrons and employees, and female patrons and employees, or shall provide single-
9 user rest room facilities. Male patrons and employees shall be prohibited from using the rest room(s)
10 for females, and female patrons and employees shall be prohibited from using the rest room(s) for
11 males, except to carry out duties of repair, maintenance, and cleaning of the rest room facilities.
12 Transgender individuals may use the restroom of the gender with which he or she identifies. Rest
13 rooms shall not contain television monitors or other motion picture or video projection, recording, or
14 reproduction equipment.

15 (m) Except for businesses regulated by the Alcoholic Beverage Control Commission, the
16 Live Adult Entertainment Business shall provide the following if physically feasible:

17 (1) Separate dressing room facilities for exotic dancers, which are exclusively
18 dedicated to their use;

19 (2) A secure entrance/exit for exotic dancers, which is separate from the
20 entrance/exit used by patrons.

21 (n) Live Adult Entertainment Businesses shall employ security guards in order to maintain
22 the public peace and safety, based upon the following standards:

23 (1) At least one (1) security guard shall be on the premises at all times while the
24 business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an
25 additional security guard shall be on duty.

1 brochures and other informational materials regarding the rights of workers under applicable federal,
2 state, and local labor laws as may be required by the Department on the Status of Women or San
3 Francisco Office of Labor Standards Enforcement. Such materials shall be provided to the operator by
4 the Department on the Status of Women or San Francisco Office of Labor Standards Enforcement.

5 (q) The requirements of this Section shall be deemed conditions of Live Adult Entertainment
6 Business Permit approvals, and failure to comply with every such requirement shall be grounds for (i)
7 suspension or revocation of the Permit issued pursuant to this Article, or (ii) denial of an application to
8 renew the Permit.

9
10 SEC. 1074.64. DISPLAY OF PERMIT.

11 Every Live Adult Entertainment Business shall display at all times during business hours the
12 permit issued pursuant to the provisions of this Article for such Live Adult Entertainment Business in a
13 conspicuous place so that the same may be readily seen by all persons entering the premises.

14
15 SEC. 1074.65. EMPLOYMENT OF AND SERVICES RENDERED TO PERSONS UNDER THE
16 AGE OF EIGHTEEN (18) YEARS PROHIBITED.

17 (a) It shall be unlawful for any permittee, operator, or other person in charge of any Live
18 Adult Entertainment Business to employ, or provide any service for which it requires such permit, to
19 any person who is not at least eighteen (18) years of age.

20 (b) It shall be unlawful for any permittee, operator, or other person in charge of any Live
21 Adult Entertainment Business to permit to enter, or remain within the Live Adult Entertainment
22 Business, any person who is not at least eighteen (18) years of age.

1 Adult Entertainment Business after such time without a Live Adult Entertainment Permit, shall
2 constitute a violation of Section 1074.54 of this Article.

3
4 SEC. 1074.69. CIVIL PENALTIES.

5 Any person operating a Live Adult Entertainment Business in violation of this Article shall be
6 liable for a civil penalty not to exceed the amount of \$1,000 for each day or portion thereof that the
7 person operates or continues to operate such business in violation of this Article. Except as authorized
8 by Section 1074.71, the penalty shall be assessed and recovered in a civil action brought by the City
9 Attorney on behalf of the City and County of San Francisco. Any monies recovered pursuant to this
10 section shall be deposited into the Treasury of the City and County of San Francisco.

11
12 SEC. 1074.70. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

13 In undertaking the adoption and enforcement of this Article, the City and County is assuming an
14 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers
15 and employees, an obligation for breach of which it is liable in money damages to any person who
16 claims that such breach proximately caused injury.

17
18 SEC. 1074.71. ~~PRIVATE RIGHT OF ACTION~~

19 (a) Any individual who performs work or provides services on the premises of a Live Adult
20 Entertainment Business, acting as a private attorney general, may prosecute a civil action on behalf of
21 herself or himself and on behalf of current or former employees, to assess and collect civil penalties for
22 violations of this Article, including but not limited to the provisions of the Labor Code specified in
23 Section 1047.63(p) of this Article, subject to the following:

24 (1) If the violation of this Article is predicated on a violation of the Labor Code, then
25 the individual must be an "aggrieved employee" as defined in Labor Code Section 2699(c) to prosecute

1 either (i) no action is warranted, with a brief explanation of the basis for the decision, (ii) action has
2 been taken or initiated, or will be initiated, in connection with the alleged violation, with a brief
3 description of the action, or (iii) no further action will be taken. If the City has not informed the
4 permittee and the aggrieved individual of its decision within 130 calendar days of the postmark date of
5 the notice received pursuant to paragraph (2)(A), or if the City's notice is that no further action will be
6 taken, an aggrieved individual may bring a civil action under this Section. If the City's notification is
7 that no action by the City is warranted or action has been taken or initiated, or will be initiated, the
8 aggrieved individual may not bring a civil action under this Section. The inability of an aggrieved
9 individual to bring an action under this Section to assess and collect civil penalties shall not impair the
10 right of the individual to pursue any other legal or administrative remedy against the permittee or
11 operator of the Live Adult Entertainment Business held by the individual.

12 (D) An aggrieved individual who prevails in an action under this Section
13 shall be entitled to reasonable attorneys' fees and costs, and 25% of civil penalties recovered. The
14 remaining 75% of civil penalties recovered in such action shall be deposited into the in the Treasury of
15 the City and County of San Francisco. The amount of the civil penalties may not exceed \$1,000 per
16 day for each day or portion thereof that the person operated or continues to operate such business in
17 violation of this Article.

18 (b) If the alleged violation of this Article is a failure to act by the City, or any of its
19 departments, divisions, commissions, boards, agencies, or employees, there shall be no civil penalty.

20 (c) Violations of this Article by an operator of a Live Adult Entertainment Business shall be
21 deemed an unfair or fraudulent business practice or act for purposes of Section 17200 of the Business
22 and Professions Code, and shall subject the operator to enforcement under Chapter 5 of Part 2 of
23 Division 7 of the Business and Professions Code (commencing with Section 17200). Any person may
24 pursue representative claims or relief on behalf of others if the person meets the standing requirements
25

1 (b) ~~Adult Theater. A theater as defined herein which is used more than 10 percent of its~~
2 ~~presentation time, measured on an annual basis, for the exhibition or display of entertainment which is~~
3 ~~distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified~~
4 ~~Sexual Activities" or "Specified Anatomical Areas" as defined herein.~~

5 (e) Specified Sexual Activities.

- 6 1. Human genitals in a state of sexual stimulation or arousal;
- 7 2. Acts of human masturbation, sexual intercourse or sodomy;
- 8 3. Fondling or other erotic touching of human genitals, pubic region, buttock or female
9 breast.

10 (d) Specified Anatomical Areas.

- 11 1. Less than completely and opaquely covered
 - 12 (a) Human genitals, pubic hair, buttock, natal cleft, perineum, anal region, and
 - 13 (b) Female breast at or below the areola thereof; and
- 14 2. Human male genitals in a discernibly turgid state, even if completely and opaquely
15 covered.

16 (e) Person. An individual, firm, partnership, joint adventure, association, social club,
17 fraternal organization, joint stock company, corporation, estate trust, business trust, receiver,
18 trustee, syndicate, or any other group or combination acting as a unit excepting the United
19 States of America, the State of California, and any political subdivision of either thereof.

20 (f) Entertainment. Any act, play, revue, pantomime, scene, song, dance act, or
21 song and dance act, conducted or participated in by one or more persons, whether or not
22 such person or persons are compensated for such performance.

23 (g) Operator. Any person operating an ~~adult theater or an~~ adult bookstore in the City
24 and County of San Francisco, including, but not limited to, the owner or proprietor of such
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SEC. 791.3. PENALTY — MISDEMEANOR OR INFRACTION.

Any operator of an ~~adult theater or~~ an adult bookstore who knowingly violates or permits to be violated any provision of this Article shall be guilty of an infraction or a misdemeanor.

(a) If charged as an infraction the penalty shall be as follows:

(1) Upon a first conviction thereof, such person shall be punished by a fine not to be less than \$50 nor to exceed \$500;

(2) Upon a second conviction thereof, such person shall be punished by a fine not to be less than \$250 nor to exceed \$500;

(3) Upon a third conviction thereof, such person shall be punished by a fine not to be less than \$400 nor to exceed \$500;

(b) If charged as a misdemeanor the penalty, upon conviction of such person, shall be by imprisonment in the County Jail for a period not to exceed six months or by a fine not exceeding \$1,000, or by both such fine and imprisonment;

(c) The complaint charging such violation shall specify whether the violation charged is a misdemeanor or an infraction."

Section 3. Article 15.1 of the San Francisco Police Code is hereby amended by amending Section 1060 and repealing Section 1060.9.1, 1060.10 and 1060.13, as follows:

SEC. 1060. DEFINITIONS.

For the purpose of this Article, the following words and phrases shall mean and include:

(a) "Place of Entertainment." Every premises to which patrons or members are admitted which serves food, beverages, or food and beverages, including but not limited to

1 (g) "Operator." Any person operating a place of entertainment in the City and
2 County of San Francisco, including, but not limited to, the owner or proprietor of such
3 premises, lessee, sublessee, mortgagee in possession, permittee or any other person
4 operating such place of entertainment or amusement.

5 (h) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious or
6 benevolent, or any other nonprofit organization having a regular membership association
7 primarily for mutual social, mental, political and civic welfare, to which admission is limited to
8 members and guests and revenue accruing therefrom shall be used exclusively for the
9 benevolent purposes of said organization and which organization or agency is exempt from
10 taxation under the Internal Revenue laws of the United States as a bona fide fraternal,
11 charitable, religious, benevolent or nonprofit organization.

12 (i) "Admission Charge." Any charge for the right or privilege to enter any place of
13 entertainment including a minimum service charge, a cover charge or a charge made for the
14 use of seats and tables, reserved or otherwise.

15 (j) "Tax Collector." Tax Collector of the City and County of San Francisco.

16 (k) "Security Plan." A plan that (i) provides at least 1 security guard for every 100
17 persons authorized by the Occupancy Permit, (ii) secures a 50 foot perimeter in all directions
18 around the location of the Place of Entertainment to prevent injury to persons and/or damage
19 to property, and (iii) provides for the orderly disbursement of persons and traffic from the
20 Place of Entertainment. The Entertainment Commission, in consultation with the San
21 Francisco Police Department, shall develop rules and regulations implementing this section.

22
23 ~~SEC. 1060.9.1. REQUIREMENT FOR STAGE.~~

24 ~~Entertainers whose breasts are exposed to view shall perform only upon a stage at least 18~~
25 ~~inches above the immediate floor level and removed at least 6 feet from the nearest patron.~~

1 ~~all times be visible from any point in the extended hours premises where such rooms, booths,~~
2 ~~enclosures, compartments, stalls, or alcoves should be reasonably within view.~~

3

4 Section 5. The San Francisco Police Code is hereby amended by repealing Article 15.4
5 thereof, as follows:

6

7 ~~SEC. 1072.1. DEFINITIONS. For the purposes of this Article, the following words and~~
8 ~~phrases shall mean and include:~~

9 ~~(a) Theater. A building, playhouse, room, hall, or other place having therein a permanent~~
10 ~~stage upon which movable scenery is or may be placed and upon which theatrical or vaudeville or~~
11 ~~similar performances are given, with seats so arranged in proximity to such stage that a body of~~
12 ~~spectators may have an unobstructed view of said stage, the primary function of which is to serve as the~~
13 ~~locale of such performance.~~

14 ~~(b) Encounter Studio. An establishment to which patrons or members are invited and is so~~
15 ~~arranged as to provide booths, cubicles, room or rooms, compartments or stalls wherein an entertainer~~
16 ~~provides entertainment as defined herein to patrons or members or groups of members or patrons~~
17 ~~within the aforesaid booths, cubicles, room or rooms, compartments or stalls.~~

18 ~~(c) Entertainment. Any act, play, review, pantomime, scene, song, dance act, song and~~
19 ~~dance act, modeling, conversation, appearance or any other live act, demonstration, exhibition, or~~
20 ~~poetry recitation, conducted or participated in by any person in or upon any premises to which patrons~~
21 ~~or members are admitted. "Entertainment" also includes a fashion or style show, except when~~
22 ~~conducted by a bona fide nonprofit club or organization as part of the social activities of such club or~~
23 ~~organization, and when conducted solely as a fund raising activity for charitable purposes.~~

24 ~~"Entertainment," in addition, is defined to mean and include the playing upon or use of any~~
25 ~~instrument that is capable of or can be used to produce musical sounds or percussion sounds, including~~

1 ~~(j) Specified Anatomical Areas. (1) Less than completely and opaquely covered: (a) human~~
2 ~~genitals, pubic hair, buttock, natal cleft, perineum, anal region, and (b) female breast at or below the~~
3 ~~areola thereof; and (2) Human male genitals in a discernibly turgid state, even if completely and~~
4 ~~opaquely covered.~~

5
6 ~~SEC. 1072.2. PERMIT REQUIRED. It shall be unlawful for any person to engage in, conduct~~
7 ~~or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City~~
8 ~~and County of San Francisco, the operation of an Encounter Studio as herein defined, without first~~
9 ~~having obtained a permit from the Entertainment Commission.~~

10
11 ~~SEC. 1072.3. EMPLOYEE PERMIT REQUIRED DISPLAY. It shall be unlawful for any~~
12 ~~entertainer or other employee to work in or about, or to perform any services for a customer of an~~
13 ~~Encounter Studio without first securing a permit from the Entertainment Commission.~~

14 ~~Every person to whom an employee permit is granted pursuant to the provisions of this Article~~
15 ~~shall display said permit in plain view on his person at all times while on an Encounter Studio premises~~
16 ~~in such a manner that the same may be readily seen by customers on the premises. Said permit shall~~
17 ~~contain a recent photograph of the entertainer as well as said entertainer's name and permit number.~~

18
19 ~~SEC. 1072.4. FILING AND FEE PROVISION. Every applicant desiring a permit to maintain,~~
20 ~~operate or conduct an Encounter Studio shall file an application with the Entertainment Commission~~
21 ~~upon a form provided by said Entertainment Commission and pay a filing fee which shall not be~~
22 ~~refundable. Each such applicant shall pay an additional fee of \$500 which shall be used by the~~
23 ~~Entertainment Commission to investigate said applicant's application as provided in Section 1072.6~~
24 ~~herein. Any unused portion of such additional fee shall be returned to the applicant at the conclusion of~~
25 ~~the hearing on his application provided by Section 1072.1.~~

1 ~~(h) Whether applicant or any other person who will be directly engaged in the management~~
2 ~~or operation of the Encounter Studio has been previously granted permits or licenses to engage in a~~
3 ~~business or occupation by the State of California or by the City and County of San Francisco, any of~~
4 ~~which permits or licenses has/have been revoked by the granting authority because of violation of law~~
5 ~~or violation of rules promulgated by the regulating agency where the issuing agency or the regulating~~
6 ~~agency is either the Alcoholic Beverage Control Commission or the San Francisco Entertainment~~
7 ~~Commission. The Entertainment Commission shall not take into account such revocation if the~~
8 ~~applicant suffered such revocation at least three years prior to the date of the application.~~

9 ~~(i) Such other identification and information necessary to discover the truth of the matters~~
10 ~~hereinbefore specified as required to be set forth in the application.~~

11 ~~(j) Nothing contained herein shall be construed to deny to the Entertainment Commission~~
12 ~~the right to take the fingerprints and additional photographs of the applicant, nor shall anything~~
13 ~~contained herein be construed to deny the right of said Entertainment Commission to confirm, by~~
14 ~~independent investigation, the truth and accuracy of the above information.~~

15
16 ~~SEC. 1072.7. APPLICATION FOR EMPLOYEE OF AN ENCOUNTER STUDIO. The~~
17 ~~employee of an Encounter Studio filing for a permit shall furnish the following information:~~

18 ~~(a) Name.~~

19 ~~(b) Residence address.~~

20 ~~(c) Encounter Studio in which the employee is currently working.~~

21 ~~(d) Two previous addresses immediately prior to the present address of the applicant.~~

22 ~~(e) Applicant's weight, height, color of eyes and hair.~~

23 ~~(f) Written proof that applicant is at least 18 years of age.~~

24 ~~(g) Three portrait photographs of at least 2" x 2".~~

1 ~~(3) A corporation which is required by law to file periodic reports with the Securities and~~
2 ~~Exchange Commission.~~

3
4 ~~SEC. 1072.10. CORPORATE PERMITTEE; MAINTENANCE OF STOCK REGISTER;~~
5 ~~REPORT. (A) Any corporation holding a permit under this Article shall maintain a stock register at~~
6 ~~the principal office of the corporation in San Francisco and the stock register shall be available to the~~
7 ~~Entertainment Commission for inspection. Such corporation shall report to the department in writing~~
8 ~~any of the following:~~

9 ~~(1) Issuance or transfer of any shares of stock or beneficial ownership thereof to any~~
10 ~~person where the issuance or transfer results in the person owning 10 percent or more of the~~
11 ~~corporate stock.~~

12 ~~(2) Change in any of the corporate officers which are required by Section 821 of the~~
13 ~~Corporations Code.~~

14 ~~(3) Change of the members of its Board of Directors.~~

15 ~~The report shall be filed with the Entertainment Commission within 30 days after the issuance~~
16 ~~or transfer of corporate stock or beneficial ownership thereof, change in corporate officers, or change~~
17 ~~in members of the Board of Directors, as the case may be.~~

18 ~~(B) The provisions of this Section shall not apply to any of the following:~~

19 ~~(1) A corporation, the stock of which is listed on a stock exchange in this state or in~~
20 ~~the City of New York, State of New York.~~

21 ~~(2) A bank, trust company, financial institution or title company to which a permit is~~
22 ~~issued in a fiduciary capacity.~~

23 ~~(3) A corporation which is required by law to file periodic reports with the~~
24 ~~Securities and Exchange Commission.~~

1 ~~(3) — That the applicant and any other person who will be directly engaged in the~~
2 ~~management and operation of an Encounter Studio has been convicted of any of the following offenses~~
3 ~~or convicted of an offense within, or without the State of California that would have constituted any of~~
4 ~~the following offenses if committed within the State of California:~~

5 ~~(a) — An offense involving conduct which requires registration pursuant to Section 290~~
6 ~~of the Penal Code;~~

7 ~~(b) — An offense involving the use of force and violence upon the person of another.~~

8 ~~(c) — An offense involving sexual misconduct with children;~~

9 ~~(d) — An offense as defined in Sections 311, 647(a), 647a, 647(b), 315, 316, 318 or 266~~
10 ~~through 267 inclusive of the Penal Code of the State of California;~~

11 ~~(e) — The applicant has had revoked his license or permit issued by either the~~
12 ~~Alcoholic Beverage Control Commission of the State of California or the San Francisco Entertainment~~
13 ~~Commission.~~

14 ~~(4) — That the applicant or any other person who will be directly engaged in the management~~
15 ~~and operation of the Encounter Studio has had a permit or license to engage in a business or~~
16 ~~occupation granted by the State of California or the City and County of San Francisco revoked by the~~
17 ~~granting authority.~~

18 ~~The Entertainment Commission shall issue a permit to any person convicted of any of the crimes~~
19 ~~described in Subsections (3a), (3b), (3c), (3d), or (3e) of this Section or subjected to a license or permit~~
20 ~~revocation as described in Subsection (4) of this Section if he finds that the termination of any disability~~
21 ~~resulting from such conviction or revocation occurred at least three years to the date of the application~~
22 ~~and the applicant has had no subsequent felony convictions of any nature, no subsequent misdemeanor~~
23 ~~convictions for crimes mentioned in this Section and no permit or license revocations as mentioned in~~
24 ~~Subsection (4) of this Section.~~

1 ~~The Entertainment Commission shall issue a permit to any person subjected to a revocation as~~
2 ~~described in this Section or to any person convicted of any of the crimes enumerated in Subsections (a),~~
3 ~~(b), (c), (d), or (e) of this Section if he finds that the termination of any disability resulting from such~~
4 ~~conviction or revocation occurred at least three years prior to the date of the application and the~~
5 ~~applicant has had no subsequent felony convictions of any nature, no subsequent misdemeanor~~
6 ~~convictions for crimes mentioned in this Section and no subsequent permit revocations mentioned in~~
7 ~~this Section.~~

8
9 ~~SEC. 1072.16. REVOCATION OR SUSPENSION OF PERMIT. Any permit issued for an~~
10 ~~Encounter Studio or employee may be revoked or suspended by the Entertainment Commission after a~~
11 ~~hearing, in any case where any of the provisions of this Article or local or State law are violated or~~
12 ~~where any employee of the permittee has engaged in any conduct which violates any of the state or~~
13 ~~local laws or ordinances at permittee's place of business, or in any case where the permittee or licensee~~
14 ~~refuses to permit any duly authorized Police officer of the City and County of San Francisco to inspect~~
15 ~~the premises or the operations therein.~~

16
17 ~~SEC. 1072.17. EMPLOYMENT OF PERSONS UNDER THE AGE OF 18 PROHIBITED. It~~
18 ~~shall be unlawful for any owner, proprietor, manager or other person in charge of any Encounter~~
19 ~~Studio to employ any person who is not at least 18 years of age.~~

20
21 ~~SEC. 1072.18. AGE OF CUSTOMER. It shall be unlawful for any owner, proprietor, manager~~
22 ~~or other person in charge of an Encounter Studio to allow any person under the age of 18 years to~~
23 ~~patronize an Encounter Studio as a customer or patron.~~

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~~SEC. 1072.23. DAILY REGISTER. Every person who engages in, conducts, or carries on the operation of an Encounter Studio shall keep a daily register, approved as to form by the Entertainment Commission, of the following information:~~

~~(a) The identification of all employees employed by such establishment, together with a duplicate of each of said employees' employee permit;~~

~~(b) The hours of employment of each employee for each day;~~

~~(c) The rooms, cubicles, booths, compartments or stalls assigned to or used by each employee for that day and the time at which each employee used or was assigned to each room, cubicle, booth, compartment or stall; and~~

~~(d) All patrons, with said patrons' true full names, residential street, city and state addresses and hours of arrival and the rooms, cubicles, booths, compartments or stalls used by each patron, if any.~~

~~Said daily register shall at all times during business hours be subject to inspection by the Entertainment Commission and by the Health Department and shall be kept on file for one year on the premises.~~

~~SEC. 1072.24. PROHIBITED ACTIVITIES. (A) No person, while acting as an entertainer in an Encounter Studio, shall:~~

~~(1) Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or~~

~~(2) Expose or employ any device, costume or cover which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or~~

~~(3) Expose any portion of the female breast at or below the areola thereof; or~~

1 ~~that is so arranged that the entire interior portion of same is not visible from the exterior of the booth,~~
2 ~~cubicle, room or rooms, compartment or stall. No booth, cubicle, room, compartment or stall shall be~~
3 ~~so maintained or constructed so that the entrance to same may be blocked by a door or curtain or~~
4 ~~similar device.~~

5
6 ~~SEC. 1072.29. HOURS OF OPERATION. Encounter Studios shall be operated only between~~
7 ~~the hours of 10:00 a.m., and 10:00 p.m., of the same day.~~

8
9 ~~SEC. 1072.30. SIGNS REGULATED. No sign or signs which, in whole or in part, advertise~~
10 ~~any Encounter Studio and which sign or signs use the words "nude," "topless," "bottomless,"~~
11 ~~"naked," or words of like import in any language, or which, either expressly or by implication, indicate~~
12 ~~that any act which is prohibited by this Article or by state or local law is available or performed in said~~
13 ~~Encounter Studio, shall be maintained, erected, used or placed in upon or adjacent to the outside or~~
14 ~~inside of any building where it is visible from public streets or from adjacent buildings and premises,~~
15 ~~the purposes of which sign is intended to attract, lure or entice customers.~~

16
17 ~~SEC. 1072.31. SIGNS; CONTINUED. No operator of an Encounter Studio shall permit, or~~
18 ~~cause to be permitted, any sign to be posted on the premises which depicts, describes or relates to~~
19 ~~"Specified Sexual Activities" or "Specified Anatomical Areas" as defined herein.~~

20
21 ~~SEC. 1072.32. SIGNS REQUIRED. (a) — Each operator of an Encounter Studio shall post~~
22 ~~and display signs in a conspicuous place, one inside and one outside the Encounter Studio which lists~~
23 ~~the services provided by said studio and the fee or charge for each such service;~~

24 ~~(b) — Each operator of an Encounter Studio shall post and display signs in a conspicuous~~
25 ~~place, one inside and one outside the Encounter Studio which read as follows: "THIS ENCOUNTER~~

1 ~~SEC. 1072.35. LOCKED DOORS. No operator of an Encounter Studio shall lock or otherwise~~
2 ~~bar the entrance door to the Encounter Studio through which customers or patrons are customarily~~
3 ~~admitted during the hours of operation. If there is more than one door through which customers or~~
4 ~~patrons are customarily admitted, only one such door need remain in an unlocked condition during the~~
5 ~~hours of operation.~~

6 ~~Nothing in this Section shall be construed to relieve the owner, manager, proprietor or person~~
7 ~~in charge of an Encounter Studio from compliance with the several sections of Part II, Chapter IV of~~
8 ~~the San Francisco Municipal Code (Fire Code).~~

9
10 ~~SEC. 1072.36. COUNSELING OR ASSISTING. No person shall permit, counsel or assist any~~
11 ~~other person in the violation of any provision of this Article.~~

12
13 ~~SEC. 1072.37. EXEMPTIONS. The provisions of Section 1072.2 relating to requirement for a~~
14 ~~permit shall not apply to an Encounter Studio operated by any public agency or by any educational or~~
15 ~~social agency, or any bona fide charitable organization as defined in Section 1072.1(f) herein.~~

16
17 ~~SEC. 1072.38. EXEMPTIONS CONTINUED. This Article shall not apply to any of the~~
18 ~~following who hold current, unrevoked licenses or certificates from the State of California:~~

19 ~~(a) Physicians as defined in Section 4033 of the Business and Professions Code;~~

20 ~~(b) Drugless Practitioners as defined in Section 2138 of the Business and Professions Code;~~

21 ~~(c) Psychiatric Technicians as defined in Section 4502 of the Business and Professions~~

22 ~~Code;~~

23 ~~(d) Psychologist as defined in Section 2903 of the Business and Professions Code; or~~

24 ~~(e) Persons working under the immediate control and direction of persons specified in~~

25 ~~Subsections (a), (b), (c) or (d) of this Section.~~

1 ~~SEC. 1072.42. PENALTY, MISDEMEANOR OR INFRACTION. Any person who violates any~~
2 ~~provisions of this Article shall be deemed guilty of a misdemeanor or an infraction.~~

3 ~~(a) — If charged as an infraction the penalty, upon conviction of such person, shall be by a~~
4 ~~fine not exceeding \$500;~~

5 ~~(b) — If charged as a misdemeanor the penalty, upon conviction of such person, shall be by~~
6 ~~imprisonment in the County Jail for a period not to exceed six months or by a fine not exceeding~~
7 ~~\$1,000, or by both such fine and imprisonment;~~

8 ~~(c) — The complaint charging such violation shall specify whether the violation charged is a~~
9 ~~misdemeanor or an infraction. Such charging decisions shall be at the sole discretion of the District~~
10 ~~Attorney;~~

11 ~~(d) — Nothing herein shall prohibit the District Attorney from exercising the sole discretion~~
12 ~~vested in him by law to charge an operator, employee, or any other person associated with an~~
13 ~~Encounter Studio with violating this or any other local or state law.~~

14
15 ~~SEC. 1072.43. PENALTY LIMITED SUSPENSION OR REVOCATION. Any permit issued~~
16 ~~under the terms of this Article may be suspended for a period of 30 days by the Entertainment~~
17 ~~Commission if the Entertainment Commission deems after a noticed hearing, that violation of the~~
18 ~~regulations or any provisions of the Municipal Code has occurred. A permit may be revoked for such~~
19 ~~violations as set forth in Section 1072.16, above.~~

20
21 ~~SEC. 1072.44. TIME LIMIT FOR OBTAINING PERMIT. All premises required to obtain a~~
22 ~~permit and license pursuant to this Article must obtain a permit within 45 days of the effective date of~~
23 ~~this Article; failure to do so shall make continued operation of said Encounter Studio a violation of~~
24 ~~Section 1072.42 hereof. Permits must be obtained from the Entertainment Commission as Sections~~
25 ~~1072.2, 1072.3, 1072.4, 1072.5, and 1072.6 provide.~~

1 ~~(c) The complaint charging such violation shall specify whether the violation charged is a~~
2 ~~misdemeanor or an infraction. Such charging decisions shall be at the sole discretion of the District~~
3 ~~Attorney;~~

4 ~~(d) Nothing herein shall prohibit the District Attorney from exercising the sole discretion~~
5 ~~vested in him by law to charge an operator, employee, or any other person associated with an~~
6 ~~Encounter Studio with violating this or any other local or state law.~~

7
8 ~~SEC. 1072.43. PENALTY LIMITED SUSPENSION OR REVOCATION. Any permit issued~~
9 ~~under the terms of this Article may be suspended for a period of 30 days by the Entertainment~~
10 ~~Commission if the Entertainment Commission deems after a noticed hearing, that violation of the~~
11 ~~regulations or any provisions of the Municipal Code has occurred. A permit may be revoked for such~~
12 ~~violations as set forth in Section 1072.16, above.~~

13
14 ~~SEC. 1072.44. TIME LIMIT FOR OBTAINING PERMIT. All premises required to obtain a~~
15 ~~permit and license pursuant to this Article must obtain a permit within 45 days of the effective date of~~
16 ~~this Article; failure to do so shall make continued operation of said Encounter Studio a violation of~~
17 ~~Section 1072.42 hereof. Permits must be obtained from the Entertainment Commission as Sections~~
18 ~~1072.2, 1072.3, 1072.4, 1072.5, and 1072.6 provide.~~

19
20 ~~SEC. 1072.45. SEVERABILITY. If any section, subsection, subdivision, paragraph,~~
21 ~~sentence, clause or phrase of this Article, or application thereof to any person or circumstances, is for~~
22 ~~any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction,~~
23 ~~such decision shall not affect the validity or effectiveness of the remaining portions of this Article or~~
24 ~~any part thereof. The Board of Supervisors hereby declares that it would have passed such section,~~
25 ~~subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any~~

1 Section 6. Article 1 of the San Francisco Police Code is hereby amended by amending
2 Sections 2.26 and 2.27, to read as follows:

3

4

SEC. 2.26. SCHEDULE OF PERMITS AND FILING FEES.

5

6

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

8

9

TYPE OF PERMIT FILING FEE

10

Permit Amendment/Additional Partner \$ 81

11

Amusement Park 871

12

Antique Shop 558

13

Auto Wrecker 664

14

Ball or Ring Throwing Games 477

15

Balloon and Kite Advertising 367

16

Billiard Parlor 456

17

Bingo Games 112

18

Amendment to Permit 112

19

Circus 648

20

Closing-Out Sale 413

21

Dance Hall Keeper 1,401

22

Amendment to Permit 660

23

One Night Dance 40

24

Dealer in Firearms and/or Ammunition 961

25

Renewal 218

1	Loudspeaker	416
2	Vehicle	416
3	Masked Ball	779
4	Massage Establishment	1,684
5	Masseur/Masseuse	202
6	Trainee	202
7	Mechanical Amusement Devices	568
8	Mechanical Contrivance	568
9	Miniature Golf Course	586
10	Mobile Caterer	775
11	Additional Stop	73
12	Assistant	73
13	Transfer of Stop	73
14	Museum	645
15	Nude Models in Public Photographic Studio	
16	Owner	704
17	Employee	202
18	Off-Heliport Landing Site	477
19	One Night Event	255
20	Outcall Massage	462
21	Pawnbroker	763
22	Peddler	
23	Fish, Vegetables, Fruit	525
24	Food for Human Consumption	525
25	Nonfood	330

1	Owner	379
2	Solicitor	231
3	Tow Car Driver	198
4	Tow Car Firm	575
5	Trade-In Dealer	713
6	Valet Parking	
7	Fixed Location	535
8	Annual Special Event	350
9	Vehicle for Hire, Nonmotorized	644

11 SEC. 2.27. SCHEDULE OF LICENSE FEES FOR PERMITS ISSUED BY THE
 12 POLICE DEPARTMENT OR ENTERTAINMENT COMMISSION.

13 The following license fees are payable to the Tax Collector for permits issued by the
 14 Police Department or Entertainment Commission and, when applicable, for their renewal:

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

17	TYPE OF PERMIT	LICENSE FEE
18	Amusement Park	\$ 310
19	Antique Shop	52
20	Auto Wrecker	408
21	Ball or Ring Throwing Games	136
22	Balloon and Kite Advertising	75 per quarter
23	Billiard Parlor	
24	First Table	125
25	Each Additional Table	12

1	Owner	137
2	Solicitor	67
3	Tow Car Driver	28
4	Tow Car Firm	
5	First Tow Truck	457
6	Each Additional Tow Truck	182
7	Trade-In Dealer	513
8	Valet Parking	
9	Fixed Location	222
10	Annual Special Event	139
11	Vehicle for Hire, Nonmotorized	139

12
13 Section 7. The San Francisco Business and Tax Regulations Code is hereby amended
14 by adding Section 249.20, to read as follows:

15
16 Sec. 249.20. Live Adult Entertainment Business. Every person as defined in Section 6.2-15 of
17 this Code conducting business or engaging in an activity for which a Live Adult Entertainment Permit
18 is required under Article 15.7 of the San Francisco Police Code shall pay an annual license fee. The
19 amount of the license fee for the 2005-2006 fiscal year shall be as set forth in Section 2.27 of the Police
20 Code, and such amount shall be adjusted for the 2006-2007 fiscal year and annually thereafter in
21 accordance with section 2.31 of the Police Code.

22
23 Section 8. CEQA Findings.

24 The Board of Supervisors finds that this ordinance is enacted in order to mitigate the
25 threat posed to the public peace, health, or safety by Live Adult Entertainment Businesses. In

1	Licensed Tour Guide	128
2	<u>Live Adult Entertainment</u>	_____
3	Loudspeaker, Commercial	135
4	Masked Ball	194 per day
5	Massage Establishment	463
6	Masseur/Masseuse	75
7	Trainee	75 per 90-day permit
8	Mechanical Amusement Devices	
9	First Machine	256
10	Each Additional Machine	29
11	Mechanical Contrivance	
12	First Machine	144
13	Each Additional Machine	22
14	Miniature Golf Course	137
15	Mobile Caterer	582
16	Assistant	41
17	Museum	172
18	Nude Models in Public Photography Studio	
19	Owner	408
20	Employee	75
21	Off-Heliport Landing Site	32 per day
22	Outcall Massage	393
23	Pawnbroker	447
24	Peddler	
25	Fish, Vegetables, Fruit	624