

**ARTICLE 11.2: REGULATIONS FOR ADULT THEATERS AND
ADULT BOOKSTORES PERMITS AND LICENSE PROVISIONS**

- Sec. 791. Definitions.
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SEC. 791. DEFINITIONS.

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

(a) **Adult Bookstore.** An establishment having 25 percent or more of its total inventory or product lines books, magazines or periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined herein, or an establishment which devotes 25 percent or more of its floor or display space to the sale or display of such material. The term "product line" refers to items which are all identical, such as numerous copies of the same book or periodical.

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

(c) **Specified Sexual Activities.**

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

(d) **Specified Anatomical Areas.**

1. Less than completely and opaquely covered
- (a) Human genitals, pubic hair, buttock, natal cleft, perineum, anal region, and

(b) Female breast at or below the areola thereof; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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

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

(g) **Operator.** Any person operating an adult theater or an adult bookstore in the City and County of San Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, or any other person operating such adult theater or adult bookstore.

(h) **Theater.** A building or part of a building intended to be used for the specific purposes of presenting entertainment, as defined herein, or displaying motion pictures, slides or closed circuit television pictures before an individual or assemblage of persons, whether such assemblage be of a public, restricted or private nature, except a home or private dwelling and for which no fee, by way of an admission charge, is made. (Amended by Ord. 99-85, App. 2/25/85)

SEC. 791.1. REGULATIONS OF SIGNS.

It shall be unlawful for the operator of an adult theater or adult bookstore in the City and County of San Francisco to place or cause to be placed or

maintained in such a location as can be viewed by persons on any public street, any sign or signs, photographic, pictorial or other graphic representations, that depict in whole or in part the following:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation or flagellation.

(2) Scenes wherein a person displays the vulva or the anus or the genitals.

(3) Scenes wherein artificial devices are employed to depict, or drawings are employed to portray, any of the prohibited signs, photographs or graphic representations described above. (Amended by Ord. 99-85, App. 2/25/85)

SEC. 791.2. VISIBILITY FROM THE STREET.

No operator of an adult theater or adult bookstore in the City and County of San Francisco shall permit, or cause to be permitted, any stock in trade which depicts, describes or relates to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein, to be viewed from the street, sidewalk or highway. (Amended by Ord. 99-85, App. 2/25/85)

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. (Amended by Ord. 99-85, App. 2/25/85)

SEC. 791.4. EFFECTIVE DATE.

The provisions of this ordinance shall not become effective until May 1, 1985. (Amended by Ord. 99-85, App. 2/25/85)

**ARTICLE 15.1: ENTERTAINMENT REGULATIONS PERMIT
AND LICENSE PROVISIONS**

- Sec. 1060. Definitions.
- Sec. 1060.1. Permit Required.
- Sec. 1060.2. Filing.
- Sec. 1060.3. Application Form.
- Sec. 1060.4. Verification of Application.
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- Sec. 1060.6. Private Club.
- Sec. 1060.7.1. Solicitation of Drinks or Merchandise.
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- Sec. 1060.10. Booths.
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- Sec. 1060.13. Minors.
- Sec. 1060.14. Regulation of Signs.
- Sec. 1060.15. Signs, Continued.
- Sec. 1060.17. Removal of Signs and Pictorial Representation.
- Sec. 1060.18. Visibility From the Street.
- Sec. 1060.19. Permit Fee; Exemptions.
- Sec. 1060.20. Suspension and Revocation.
- Sec. 1060.21. Forfeiture of Fee.
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- Sec. 1060.23. Limited Suspension.
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- Sec. 1060.25. Penalty.
- Sec. 1060.26. Severability.
- Sec. 1060.27. Time Limit For Obtaining Permit.
- Sec. 1060.28. Earplugs and Free Drinking Water.

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 alcoholic beverages, for consumption on

the premises and wherein entertainment as defined in Subsections (b), (c), or (e) is furnished or occurs upon the premises.

(b) "Entertainment." Any act, play, review, pantomime, scene, song, dance act, song and dance act, or poetry recitation, conducted or participated in by any professional entertainer in or upon any premises to which patrons or members are admitted.

"Entertainment," in addition, is defined to mean and include the playing upon or use by any professional entertainer of any instrument that is capable of or can be used to produce musical sounds or percussion sounds, including but not limited to, reed, brass, percussion or string-like instruments, or recorded music presented by a live disc jockey on the premises.

(c) "Entertainment," Continued. "Entertainment" also includes a fashion or style show in which the models are professional entertainers, except when conducted by a bona fide nonprofit club or organization as a part of the social activities of such club or organization, and when conducted solely as a fundraising activity for charitable purposes.

(d) "Professional Entertainer." A person who is compensated for his or her performance.

(e) "Entertainment," Continued; Exhibition of Human Body. "Entertainment" also includes the act of any female professional entertainer, while visible to any customer, who exposes the breast or employs any device or covering which is intended to simulate the breast, or wears any type of clothing so that the breast may be observed.

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

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

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

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

(j) "Tax Collector." Tax Collector of the City and County of San Francisco. (Amended by Ord. 42-83, App. 2/4/83; Ord. 325-91, App. 9/4/91; Ord. 165-93, App. 5/28/93)

SEC. 1060.1. PERMIT REQUIRED.

It shall be unlawful for any person to own, conduct, operate, maintain or to participate therein, or to cause or permit to be conducted, operated or maintained, any place of entertainment in the City and County of San Francisco without first having obtained a permit from the Entertainment Commission.

Any place or premises where a permit to operate is sought must conform to all existing health, safety, zoning and fire ordinances of the City and County of San Francisco, and must have a valid public eating place permit from the Department of Public Health. The Entertainment Commission may issue a permit under this Section conditional upon the applicant receiving the other required permits.

Any permit granted by the Entertainment Commission conditional upon the applicant receiving other required permits may be appealed to the Board of Permit Appeals. Such appeal must be filed within

ten (10) days of the final decision of the Entertainment Commission issuing the conditional permit.

Any conditional permit granted by the Entertainment Commission will expire nine (9) months from the date of the final decision of the Entertainment Commission, if all the other required permits have not been received. (Amended by Ord. 284-80, App. 6/17/80; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.2. FILING.

Every person desiring a permit pursuant to this Article shall file an application with the Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a filing fee. (Amended by Ord. 555-81, App. 11/12/81; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.3. APPLICATION FORM.

Operators under any permit issued pursuant to this Article shall be limited to the terms of the application. Except as otherwise provided herein, an application for a permit pursuant to the provisions of this Article shall specify:

(a) The address of the location for which the permit is required, together with the business name of such location.

(b) The name and proposed business address of the applicant. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; and the applicant shall also set forth the date and place of incorporation; the names and residence addresses of each of the officers, directors, and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.

(c) Whether or not the applicant or any officer or director or member of applicant, as the case may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to the foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10 percent of the stock of such corporation has ever been

convicted of any crime except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the name of the person so convicted, the place and court in which the conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as the result of said conviction.

(d) The names and addresses of the persons who have authority or control over the place for which the permit is requested and a brief statement of the nature and extent of such authority and control.

(e) Such information pertinent to the operation of the proposed activity, including information as to management, authority control, financial agreements, and lease arrangements, that is reasonably related to the factual determinations this ordinance empowers the Entertainment Commission to make in reviewing and acting upon permit applications as the Entertainment Commission may require of an applicant in addition to the other requirements of this Section. The foregoing examples are in explanation of and not in limitation of the information which the Entertainment Commission may require.

(f) A business plan for the proposed place of entertainment, specifying the days and hours of operation, the number of patrons, the numbers of employees and their duties, the identity of the manager or managers who shall be on premises during all hours of operation, the types or classes of entertainment (in terms of the types of instruments, numbers of performers and sound levels) to be provided, and the amount of parking, both on-site and off-site, to be provided. If sound amplification is to be used, the plan shall also include a specific description of the amplification system.

(g) The address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service of process, if not otherwise set forth herein.

(h) Whether the application is for a new permit or for the renewal of an existing permit.

(i) The Entertainment Commission may require further information as it deems necessary. (Added by Ord. 140-70, App. 4/28/70; amended Ord. 325-91, App. 9/4/91; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.4. VERIFICATION OF APPLICATION.

Every application for a permit under this Article shall be verified as provided in the California Code of Civil Procedure for the verification of pleadings. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.5. DETERMINATION OF APPLICATION.

(a) When an application is filed for a new permit under this Article, the Entertainment Commission shall fix a time and place for a public hearing thereon to determine whether issuance of the permit would result in any of the conditions set forth in Subsection (e). The hearing must be held within 45 working days of the date the completed application is received.

(b) At the time of filing of an application, the applicant shall notify the Entertainment Commission of any outstanding requests for permits or approvals from other City departments relating to the premises of the proposed place of entertainment. The Entertainment Commission shall notify those departments of the filing of the application. Those departments shall complete all necessary inspections and report their determinations to the Entertainment Commission within 20 working days of the filing of the application.

(c) Not less than 30 days before the date of such hearing, the Entertainment Commission shall cause to be posted a notice of such hearing in a conspicuous place on the property in which or on which the proposed place of entertainment is to be operated. Such notice shall set forth the specific type of entertainment which the applicant intends to conduct. Such posting of notice shall be carried out by the Entertainment Commission, and the applicant shall maintain said notice as posted the required number of days. Notice of such hearing shall be mailed by the Chief of Police at least 30 days prior to the date of such hearing to any person who has filed a written request for such notice.

(d) At the hearing, the applicant and any other interested party, including the Police Department or any other public agency, shall be allowed to introduce evidence and present argument. The Entertainment Commission shall make a final decision upon the application at a public hearing, and shall notify the applicant, and any other interested party who has made a written request, of the final decision by first class mail.

(e) No time limit shall commence running until the submission of a completed application. Upon the applicant's request, the Entertainment Commission shall continue the hearing to allow the applicant opportunity to comply with the requirements of this Article or any other state or local law. Upon the applicant's request, the Entertainment Commission shall also issue a conditional approval of the permit application, pending approval of the permit by other City agencies, if sufficient information has been provided to allow for adequate evaluation of the proposal and if grounds for denial, as set forth in Subsection (f), are not present.

(f) The Entertainment Commission shall grant a permit pursuant to this Article unless he or she finds that:

(i) The building, structure, equipment or location of the proposed place of entertainment does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all the laws of the State of California or ordinances of the City and County of San Francisco applicable to such business operation; or

(ii) The building, structure, equipment or location of the proposed place of entertainment cannot adequately accommodate the type and volume of vehicle and pedestrian traffic anticipated; or

(iii) The building, structure, equipment or location of the proposed place of entertainment lack adequate safeguards to prevent emissions of noise, glare, dust and odor that substantially interfere with the public health, safety and welfare or the peaceful enjoyment of neighboring property.

(g) An applicant whose application for a permit has been denied pursuant to this Section may seek immediate judicial review pursuant to Code of Civil Procedure Section 1085 or Section 1094.5. The applicant is not required to exhaust his or her administrative remedies before the Board of Appeals. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 325-91, App. 9/4/91; Ord. 164-02, File No. 020783, App. 7/26/2002; Ord. 216-02, File No. 021460, App. 11/1/2002)

SEC. 1060.6. PRIVATE CLUB.

No establishment issued a permit pursuant to this Article may allow the premises to be used solely for

the purpose of conducting a private club between the hours of 2:00 a.m. and 6:00 a.m. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.7.1. SOLICITATION OF DRINKS OR MERCHANDISE.

No operator of a place of entertainment shall employ or permit any hostess, entertainer or person to solicit any patron or customer of or visitor in said place of entertainment to purchase any beverage or merchandise for the one soliciting or for any other person. (Added by Ord. 306-73, App. 8/6/73)

SEC. 1060.8. LIGHTING.

Every establishment which has received a permit pursuant to this Article shall be lighted throughout to an intensity of not less than 12 foot candles during all hours of operation except while the floor show is in progress. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.9. MISCELLANEOUS RULES.

No professional entertainer or employee may dance with any customer on the premises in any place of entertainment. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.9.1. REQUIREMENT FOR STAGE.

Entertainers whose breasts are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest patron. (Added by Ord. 273-73, App. 7/6/73)

SEC. 1060.10. BOOTHS.

It shall be unlawful for any person operating a place of entertainment under the provisions of this Article in the City and County of San Francisco, or any agent, employee or representative thereof, to erect, construct, maintain, or cause or permit to be erected, constructed or maintained, within such place of entertainment any private rooms, booths, enclosures or compartments, or any closed stalls, or any alcoves of any nature, so arranged that the inner portion of the same shall not at all times be visible from any point in the place of entertainment where such rooms, booths, enclosures, compartments, stalls or alcoves should be reasonably within view. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.11. POLICE—INSPECTION.

The Police Department, in addition to their several other duties, shall inspect any and all establishments which have been issued a permit pursuant to this Article. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.12. NOISE ABATEMENT.

Whenever, upon due notice and hearing, it shall be determined that noise from any establishment which has been issued a permit pursuant to this Article interfered with the right of persons dwelling in the vicinity of such establishment to the peaceful and quiet use and enjoyment of their property, the Entertainment Commission may require that the premises be soundproofed in a manner that in the judgment of the Entertainment Commission will be effective to eliminate the noise or reduce it to a reasonable level. In taking any action under this Section, the Entertainment Commission must balance all of the interests of the respective parties, as well as the hardship which will result from any order. If the Entertainment Commission finds that the noise complained of is of a minimum or inconsequential degree, no action shall be taken under this Article. If a permittee fails, within a reasonable time and in no event more than 60 days after having been ordered to do so pursuant to this Article, to abate any noise, his permit shall be suspended after a second hearing, due notice of which is given, until such time as he complies with the order. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.13. MINORS.

No person under 21 years of age shall enter, be, or remain in or on any premises on or in which any exhibition of the human body, as defined in Sec. 1060(f), is presented and permittee shall not permit such a person to enter, be, or remain in or on any such premises. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.14. REGULATION OF SIGNS.

No sign or signs, paintings, photographs, pictorial representations, or any other visual means shall be maintained, erected, used or placed upon or adjacent to the outside of any building, or in connection with any premises therein, which has received a permit pursuant to this Article, if it shows,

reveals or depicts, in whole or in part, the following:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, copulation (oral, anal or vaginal), flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated caressing or fondling by one adult human being of the breast, buttocks, anus or genitals of another adult human being;

(3) The actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva, buttocks, or any other external genitalia of the human body;

(4) Any portion of the nude female breast below the top of the areola. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.15. SIGNS, CONTINUED.

No sign or signs which, in whole or in part, advertise any entertainment and which sign or signs use the word "nude," "bottomless," "naked" or words of like import, except that the words "adult entertainment" or "adult show" or "topless entertainment" will be permissible, shall be maintained, erected, used, or placed upon or adjacent to the outside of any building where it is visible from public streets or from adjacent buildings, or premises, the purpose of which sign is intended to attract, lure or entice customers. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.17. REMOVAL OF SIGNS AND PICTORIAL REPRESENTATION.

Any sign, or signs, or portions thereof, in violation of Sections 1060.14 and 1060.15 shall be removed within 60 days after the effective date of this Article. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.18. VISIBILITY FROM THE STREET.

No operator of a place of entertainment shall permit, or cause to be permitted, any entertainment as defined in Section 1060(e) so that said entertainment would be visible at any time from the street, sidewalk or highway. (Added by Ord. 140-70, App. 5/28/70)

SEC. 1060.19. PERMIT FEE; EXEMPTIONS.

The provisions of Section 1060.2 relating to a permit fee shall not apply to any place of entertainment used exclusively for any of the following purposes:

(a) Places of entertainment that are operated by any public agency or by any educational, recreational or social agency, or by any bona fide fraternal, charitable, or religious or benevolent or any other nonprofit organization having a regular membership association primarily for mutual social, mental, political and civic welfare, to which admission is limited to members and guests and revenue accruing therefrom to be used exclusively for the benevolent purposes of said organization and which organization or agency is exempt from taxation under the Internal Revenue laws of the United States as a bona fide fraternal, charitable, religious, benevolent or nonprofit organization. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.20. SUSPENSION AND REVOCATION.

(a) Any permit issued under the terms of this Article may be suspended at any time by the Entertainment Commission if the Entertainment Commission determines after a noticed public hearing that any of the following conditions exist:

(1) The building, structure, equipment or location of the proposed place of entertainment does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all the laws of the State of California or ordinances of the City and County of San Francisco applicable to such business operation; or

(2) The establishment has been operated in a manner that has harmed the public health, safety or welfare by significantly increasing pedestrian traffic, the incidence of disorderly conduct, or the level of noise in the area in which the premises are located, and the permittee has failed, after being requested by the Police Department or Entertainment Commission to do so, to take reasonable steps to alleviate these conditions, such as providing additional off-street parking, security, soundproofing, restroom facilities, or refuse containers; or

(3) The proprietor or person or persons in charge thereof have violated, permitted the violation, or failed to take reasonable steps, after being requested by the Police Department or Entertainment Commission to do so, to halt violations on the premises or in connection with the operation of the establishment of any following laws of the State of

California: Penal code Sections 266h, 266i, 315, 316, 330, 337a, 647(b); Business and Professions Code Sections 23300, 25602, 25631, 25657, 25658; Health and Safety Code Sections 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5; or, the proprietor or persons in charge thereof have implemented, maintained or permitted any admission or related policy or practice which violates Section 3305 of the San Francisco Police Code.

(4) The proprietor or persons in charge thereof have violated or permitted the violation of any other provision of this Article or of the permit, on the premises or in connection with the operation of the establishment.

(b) The penalty for the first violation under Subsection (a) within a period of six months shall be suspension of said permit for a period of 30 days. The penalty for the second violation within a period of six months shall be suspension of said permit for a period of 60 days. The penalty for the third and subsequent violations within a period of six months shall be suspension of said permit for a period of 90 days. For the purposes of this Subsection, calculation of the six months shall not include any period of time during which the permit was suspended.

(c) Any permit issued under the terms of this Article may be revoked at any time by the Entertainment Commission if the Entertainment Commission determines after a noticed public hearing that any of the following conditions exist:

(1) The permittee has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit;

(2) The permittee has failed to pay any fee or charge required under this Article; or

(3) The permittee has permanently ceased operation of the business.

(d) A revocation pursuant to Subsection (c) shall not prejudice the right of an applicant to apply for a new permit.

(e) The Entertainment Commission may not consider any request for emergency medical or ambulance services to treat a permittee's patrons as a basis for suspending a permit pursuant to subdivision (a). (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 325-91, App. 9/4/91; Ord. 81-00, File No. 000390, App. 5/5/2000; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.21. FORFEITURE OF FEE.

On revocation of the permit, no part of the permit fee shall be returned, but the said permit fee shall be forfeited to the City and County of San Francisco. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.22. LICENSE FEES.

Every permittee who conducts, permits or assists in conducting or permitting any entertainment as defined in Sections 1060 (b) and (c) to be shown, staged, exhibited, or produced in or upon any permitted premise shall pay to the Tax Collector an annual license fee, payable in advance.

The license fee prescribed in this Section is due and payable on a calendar year basis starting 120 days after the effective date of this Article, prorated with regard to the calendar year on a monthly basis. Fees for new licenses issued after the first day of January, 1971, or in any subsequent calendar year shall be prorated with regard to the calendar year on a monthly basis. (Amended by Ord. 555-81, App. 11/12/81; Ord. 165-93, App. 5/28/93)

SEC. 1060.23. LIMITED SUSPENSION.

Any permit issued under the terms of this Article may be suspended for a period of 30 days by the Entertainment Commission if the Entertainment Commission determines after a noticed hearing that violation of the regulations or any provision of the Municipal Code has occurred. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.24. TRANSFER OF PERMIT.

No permit shall be transferable except with the written consent of the Entertainment Commission. An application for such a transfer shall be in writing and shall be accompanied by the same filing fee as for an initial application. The written application for such transfer shall contain the same information as requested herein for an initial application for such a permit. (Amended by Ord. 555-81, App. 11/12/81; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.25. PENALTY.

Any person who violates any provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction such person shall be punished by a fine of not to exceed \$500 or by imprisonment in the County Jail for a period not to exceed six months, or by both such fine and imprisonment. (Amended by Ord. 273-73, App. 7/6/73)

SEC. 1060.26. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivision paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.27. TIME LIMIT FOR OBTAINING PERMIT.

All premises required to obtain a permit and license pursuant to this Article because of the inclusion of recorded music presented by a live disc jockey on the premises within the definition of entertainment must obtain a permit within 90 days of the effective date of the amendments to this Article; failure so to do shall make continued operation of said place of entertainment a violation of Section 1060.25 hereof.

Permits must be obtained from the Entertainment Commission as Sections 1060.1, 1060.2, 1060.3 and 1060.4 hereof provided. (Added by Ord. 140-70 App. 4/28/70; amended by Ord. 325-91, App 9/4/91; Ord. 164-02, File No. 020783, App 7/26/2002)

SEC. 1060.28. EARPLUGS AND FREE DRINKING WATER.

If the location for which the place of entertainment permit is issued holds over 500 persons and contains a dance floor or other place primarily designated for dancing, the permit holder shall provide:

(a) Free cool drinking water to patrons by means of an automatic drinking fountain or by providing cups of water at all beverage service locations, or both; and

(b) Earplugs for free, or for sale on the premises at a reasonable price. (Added by Ord. 176-00, File No. 000477, App. 7/28/2000; amended by Ord. 215-02, File No. 021459, App. 11/1/2002)

ARTICLE 15.4: ENCOUNTER STUDIOS

- Sec. 1072.1. Definitions.
Sec. 1072.2. Permit Required.
Sec. 1072.3. Employee Permit Required Display.
Sec. 1072.4. Filing and Fee Provision.
Sec. 1072.5. Employee Permit.
Sec. 1072.6. Application for Encounter Studio Permit.
Sec. 1072.7. Application For Employee of an Encounter Studio.
Sec. 1072.8. Verification of Application.
Sec. 1072.9. Corporate, Applicants; Exemption.
Sec. 1072.10. Corporate Permittee; Maintenance of Stock Register; Report.
Sec. 1072.11. Notice of Hearing.
Sec. 1072.12. Referral of Application to Other Departments.
Sec. 1072.13. Issuance of Permit For an Encounter Studio.
Sec. 1072.14. Applications Barred For One Year.
Sec. 1072.15. Issuance of Employee Permits.
Sec. 1072.16. Revocation or Suspension of Permit.
Sec. 1072.17. Employment of Persons Under the Age of 18 Prohibited.
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Sec. 1072.22. Inspection.
Sec. 1072.23. Daily Register.
Sec. 1072.24. Prohibited Activities.
Sec. 1072.25. Solicitation of Trade.
Sec. 1072.26. Lighting.
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Sec. 1072.28. Booths and Cubicles.
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Sec. 1072.30. Signs Regulated.
Sec. 1072.31. Signs; Continued.
Sec. 1072.32. Signs Required.
Sec. 1072.33. Entertainment, Visibility from the Street.
Sec. 1072.34. Advertising.
Sec. 1072.35. Locked Doors.
Sec. 1072.36. Counseling or Assisting.
Sec. 1072.37. Exemptions.
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~~Sec. 1072.39. Exemptions Continued.~~
Sec. 1072.40. License Fees.
Sec. 1072.40-1. Employee License.
Sec. 1072.41. Transfer or Assignment of Permit.
Sec. 1072.42. Penalty, Misdemeanor or Infraction.
Sec. 1072.43. Penalty Limited Suspension or Revocation.
Sec. 1072.44. Time Limit For Obtaining Permit.
Sec. 1072.45. Severability.

SEC. 1072.1. DEFINITIONS.

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

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

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

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

"Entertainment," in addition, is defined to mean and include the playing upon or use of any instrument that is capable of or can be used to produce musical sounds or percussion sounds, including but not limited to reed, brass, percussion or stringlike instruments; provided, further, that "entertainment" is defined to mean any instrument or device capable of producing or reproducing sound.

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

(e) **Operator.** Any person operating an Encounter Studio, including but not limited to the owner or proprietor of the premises upon which it is located, and the lessee, sublessee, or mortgagee in possession.

(f) **Bona Fide Nonprofit Clubs or Organizations.** Any fraternal charitable, religious or benevolent, or any other nonprofit organization, having a regular membership association primarily for mutual social, mental, political and civil welfare to which admission is limited to members and guests and revenue accruing therefrom to be used exclusively for the benevolent purposes of said organization and which organization or agency is exempt from taxation under the Internal Revenue Laws of the United States as a bona fide fraternal, charitable, religious, benevolent or nonprofit organization.

(g) **Entertainer.** An entertainer, for the purposes of this Article, is any person who performs any act enumerated in Section 1072.1(c) of this Article

within an Encounter Studio whether for any consideration or not.

(h) **Employee.** Any and all persons who work in or about or render any services whatsoever to the patrons or customers of an Encounter Studio and who receives compensation for such service.

(i) **Specified Sexual Activities.** (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts of human masturbation, sexual intercourse or sodomy; and (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(j) **Specified Anatomical Areas.** (1) Less than completely and opaquely covered: (a) human genitals, pubic hair, buttock, natal cleft, perineum, anal region, and (b) female breast at or below the areola thereof; and (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.2. PERMIT REQUIRED.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City and County of San Francisco, the operation of an Encounter Studio as herein defined, without first having obtained a permit from the Police Department. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.3. EMPLOYEE PERMIT REQUIRED DISPLAY.

It shall be unlawful for any entertainer or other employee to work in or about, or to perform any services for a customer of an Encounter Studio without first securing a permit from the Chief of Police.

Every person to whom an employee permit is granted pursuant to the provisions of this Article shall display said permit in plain view on his person at all times while on an Encounter Studio premises in such a manner that the same may be readily seen by customers on the premises. Said permit shall contain a recent photograph of the entertainer as well as said entertainer's name and permit number. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.4. FILING AND FEE PROVISION.

Every applicant desiring a permit to maintain,

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SEC. 1072.21. DISPLAY OF PERMIT.

Every person to whom or for whom a permit to operate an Encounter Studio shall have been granted pursuant to the provisions of this Article shall display said permit in a conspicuous place within the Encounter Studio so that the same may be readily seen by persons entering the premises. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.22. INSPECTION.

The Police Department shall, from time to time and at least twice a year, make an inspection of each Encounter Studio in the City and County of San Francisco for the purposes of determining that the provisions of this Article are complied with. (Added by Ord. 241-77, App. 6/17/77)

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 Police Department, 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 Police Department and by the Health Department and shall be kept on file for one year on the premises. (Added by Ord. 241-77, App. 6/17/77)

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

(4) Employ any device or covering which is intended to simulate such portion of the breast; or

(5) Touch a customer; or

(6) Permit a customer or patron to touch an entertainer; or

(7) Leave the encounter studio with or meet a customer or patron outside of said premises.

(B) No person who is a patron of an Encounter Studio shall place, or cause to be placed in the daily register false name, or residential street, city and state addresses. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.25. SOLICITATION OF TRADE.

No operator or employee of an Encounter Studio shall permit or allow or cause any person or employee to solicit trade on the public sidewalk or shall engage in such activity. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.26. LIGHTING.

Every Encounter Studio shall be lighted throughout to an intensity of at least 12 foot candles during all hours of operation. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.27. NOISE.

It shall be unlawful for any operator or employee of an Encounter Studio to make or continue, or cause or permit to be made or continued, any vocal or instrumental music and related sounds, whether live or reproduced mechanically by radio, television, stereo or otherwise, so as to create any sound or noise which would cause the sound level (noise level) measured at any point within the Encounter Studio to exceed the sound level of 55 decibels, measured on the A weighted scale as defined in the American National Standard S-1.4-1971. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.28. BOOTHS AND CUBICLES.

It shall be unlawful for any operator of a Encounter Studio to maintain or construct any booth

cubicle, room or rooms, compartment or stall that is so arranged that the entire interior portion of same is not visible from the exterior of the booth, cubicle, room or rooms, compartment or stall. No booth, cubicle, room, compartment or stall shall be so maintained or constructed so that the entrance to same may be blocked by a door or curtain or similar device. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.29. HOURS OF OPERATION.

Encounter Studios shall be operated only between the hours of 10:00 a.m., and 10:00 p.m., of the same day. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.30. SIGNS REGULATED.

No sign or signs which, in whole or in part, advertise any Encounter Studio and which sign or signs use the words "nude," "topless," "bottomless," "naked," or words of like import in any language, or which, either expressly or by implication, indicate that any act which is prohibited by this Article or by state or local law is available or performed in said Encounter Studio, shall be maintained, erected, used or placed in upon or adjacent to the outside or inside of any building where it is visible from public streets or from adjacent buildings and premises, the purposes of which sign is intended to attract, lure or entice customers. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.31. SIGNS; CONTINUED.

No operator of an Encounter Studio shall permit, or cause to be permitted, any sign to be posted on the premises which depicts, describes or relates to "Specified Sexual Activities" or "Specified Anatomical Areas" as defined herein. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.32. SIGNS REQUIRED.

(a) Each operator of an Encounter Studio shall post and display signs in a conspicuous place, one inside and one outside the Encounter Studio which lists the services provided by said studio and the fee or charge for each such service;

(b) Each operator of an Encounter Studio shall post and display signs in a conspicuous place, one inside and one outside the Encounter Studio which read as follows: "THIS ENCOUNTER STUDIO IS REGULATED BY THE CITY AND COUNTY OF

SAN FRANCISCO. UPON ENTRY, ALL PATRONS MUST SIGN A REGISTER, GIVING THEIR TRUE NAME AND ADDRESS. THE SIGNING OF A FALSE NAME AND/OR GIVING A FALSE ADDRESS WILL BE DEEMED A MISDEMEANOR. ENTERTAINERS ARE: (1) NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT; (2) NOT PERMITTED TO REMOVE THEIR CLOTHING; (3) NOT PERMITTED TO EXPOSE BREASTS OR GENITAL AREAS; (4) NOT PERMITTED TO TOUCH OR BE TOUCHED BY CUSTOMERS; (5) NOT PERMITTED TO LEAVE WITH OR MEET A CUSTOMER OFF THE PREMISES."

(c) The signs described above must be printed in upper case block letters no less than one inch in height and ¼ inch in width. Each such sign shall state the required information in English, Spanish, Chinese and Japanese. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.33. ENTERTAINMENT, VISIBILITY FROM THE STREET.

No operator of an Encounter Studio shall permit or cause to be permitted or allow any entertainment as defined in this Article in such a manner that said entertainment would be visible at any time from the street, sidewalk or highway. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.34. ADVERTISING.

No operator of an Encounter Studio shall place or cause to be placed or distribute or cause to be distributed any advertising brochures, pamphlets, handbills, posters, announcements, or the like, that depict the human form or portions thereof, or contain such wording in such a manner that such depictions of the human form or portions thereof or words would violate Section 1072.25 of this Article if such pictorial representation were on a sign upon or adjacent to an Encounter Studio. (Added by Ord. 241-77, App. 6/17/77)

SEC. 1072.35. LOCKED DOORS.

No operator of an Encounter Studio shall lock or otherwise bar the entrance door to the Encounter Studio through which customers or patrons are customarily admitted during the hours of operation. If there is more than one door through which customers