



# POPULATION HEALTH DIVISION

SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

PROTECTING AND PROMOTING HEALTH AND EQUITY



## FAQ (Frequently Asked Questions)

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### San Francisco Department of Public Health Clarification on the Permitting Process for New Bathhouses in the City and County

The San Francisco Department of Public Health (SFPDH) has been asked to clarify the position regarding new bathhouses in the City and County. This question stems from individuals' historical recollection of the debate on the closure of businesses where men met other men for sex; some of these businesses were bathhouses or what was referred to as the "baths." First we would like to clarify the accuracy of the "closing" of gay baths.

#### Were the bathhouses closed in the early 80's?

No. The City and County of San Francisco (SF) did file a suit (People vs. Owen) against several of the operators of bathhouses, sex clubs and bookstores, citing them as a public health risk. However, the court issued an injunction that allowed them to remain open as long as they provided monitors to prevent unsafe sex from occurring and provided education to the patrons. In order to facilitate monitoring of the venues the court "ordered the doors to individual video cubicles, booth, or rooms be removed". Although many of these businesses could have remained open under the order of the court, by the end of 1984 some of the sex clubs and all of the bathhouses had closed. They closed not because of the Court's order but because business had already significantly dropped and many of the owners expressed concern that business would decrease even further with the requirements for monitoring for unsafe sex..

#### Can persons open a new bathhouse in San Francisco?

Yes. Bathhouses continue to exist in SF. Persons wishing to open and operate a new bathhouse can continue to apply for an application through the SF Police Department since the permitting process is under Article 26 of the San Francisco Police Code, which provides the definition of a bathhouse. Successful applications are approved for applicants who comply with the requirements outlined in Article 26 Regulations for Public Bath Houses. The role of the SFPDH in the permitting process is provided by the Environmental Health Branch which ensures that the establishment meets health and safety codes and conditions established in 2607 of the Police Code, such as water proof flooring. It is important for the public to know that Environmental Health Branch does not assume that persons that are opening up a new bathhouse intend to use the premise for sexual activity; therefore this is not part of their inspection process.

#### Are there different categories of bathhouses?

No. A bathhouse is a business where customers pay for communal sauna, steam, or numerous other types of baths and operate under the same permit, which is issued by the Police department. This confusion may stem from historical recollection that in the late 1970's SF had many thriving bathhouses that were frequented by gay men. For many in the Lesbian, Gay, Bisexual, and Transgender (LGBT) Community, the term "bathhouse" has been synonymous with "private locked rooms." This terminology is a LGBT community distinction, not a legal designation for the permit.

#### Is there a difference between a Sex Club and a Bathhouse?

Yes. Sex Clubs operate under a business permit issued by the SF Office of Treasurer and Tax Collector. It is important for the public to have a clear understanding that from a legal designation, the City and County does not equate the term bathhouse with a commercial sex venue. In San Francisco, there is no such thing as a permit for a sex club or commercial sex venue.

## What is a commercial sex venue?

A general definition of a commercial sex venue is a business or location which provides facilities for its patrons or member to engage in sexual contact while on the premises. It is important to note that the Court ruling included all commercial venues where sexual activities was occurring, including bookstores, theatres, sex clubs and bathhouses; the SFDPH has minimum standards for all venues where sexual activities may occur, including sex parties that are conducted in commercial locations.

## How were the SFDPH minimum standards developed?

The standards were developed in collaboration with community members, public health educators, and business operators who were concerned about the safety of such establishments and they convened the Coalition for Healthy Sex in 1990. As stated earlier, the Court ruled that all venues including bathhouses could remain open if they provided monitoring to prevent unsafe sex from occurring. In essence, the rules developed by the Coalition for Healthy Sex, and codified and implemented by the SFDPH are the same rules that would have been developed to comply with the Court ruling. If any bathhouse were to reopen today, that also wanted to operate as a commercial sex venue, they would be subject to these same regulations that are now governing sex clubs and parties.

## Has the health department ever considered revising the policy of monitoring patrons to ensure safe sex?

Over the years, community groups have asked the SFDPH to rethink the policy of monitoring the activities of patrons in commercial sex venues. The SFDPH minimum standards were developed with extensive community input and designed to ensure that only safer sex occurs in congregate and public sex environments. Although the initial focus was minimizing the risk of HIV transmission, adhering to the minimum standards may also reduce the transmission of hepatitis B, hepatitis C, syphilis, gonorrhea, Chlamydia, herpes simplex, genital warts, and other sexually transmitted infections. Some of these infections increase the risk of HIV transmission, and some of them can have severe long term complications (e.g., liver cirrhosis, central nervous system, infertility in women, etc.). By following the minimum standards, commercial sex venues protect their patrons regardless of what sexually transmitted infections are circulating in the community, including infections that are newly introduced into the community. The minimum standards also protect patrons who for a variety of reasons (e.g., language or cultural barriers, limited knowledge, peer pressure, drug or alcohol use, etc.), may be less likely to practice safer sex without the minimum standards. The SFDPH regulates businesses to protect patrons from preventable hazards, especially communicable diseases, whether it is a commercial food or sex establishment.

## What is the scientific evidence behind the minimum standards?

The scientific evidence for safer sex practices in reducing HIV and other STDs is not in dispute. What we do not know is whether monitoring of patrons to ensure safer sex is more effective than only providing educational materials and condoms. This question has not been tested through rigorous scientific research. However, by comparing SF to other locations that do not monitor, academic researchers believe that monitoring is having little or no effect on high risk behavior. There is general agreement that monitoring to ensure safer sex practices is not “causing harm.” When scientific evidence is inconclusive, we err on the side of protecting health.

The SFDPH is obligated to implement and enforce regulations that are reasonable to (a) protect the public’s health, including patrons, (b) minimize the infringement of patrons’ and business owners’ rights, and (c) balance the conflicting tradeoffs. We are committed to working with communities to find better, more effective ways of protecting and improving health. With this spirit, the SFDPH will continue our dialogue with the community on this issue.

If you have any questions regarding this FAQ, you can email them to [health.officer@sfdph.org](mailto:health.officer@sfdph.org).

### Our Mission

Drawing upon community wisdom and science, we support, develop, and implement evidence-based policies, practices, and partnerships that protect and promote health, prevent disease and injury, and create sustainable environments and resilient communities.

### Our Vision

To be a community-centered leader in public health practice and innovation.