BOARD of SUPERVISORS

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MEMORANDUM

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

FROM: Alisa Somera, Assistant Clerk, Land Use and Transportation Committee
Board of Supervisors

DATE: February 12, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

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

File No. 160104-2

Ordinance amending the Police Code to authorize the Director of the Entertainment Commission to waive the filing fee for Loudspeaker Permits based on certain criteria, replace a leafletting notice requirement to residents with a mailed notice requirement to neighborhood organizations for Place of Entertainment permit applications in neighborhood-commercial or mixed residential districts; and authorize the Director of the Entertainment Commission to extend the nine-month deadline for conditional grants of Place of Entertainment permits.

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

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RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Small Business Commission

[Police Code - Entertainment Commission Permit Procedures]

Ordinance amending the Police Code to authorize the Director of the Entertainment Commission to waive the filing fee for Loudspeaker Permits based on certain criteria, replace a leafletting notice requirement to residents with a mailed notice requirement to neighborhood organizations for Place of Entertainment permit applications in neighborhood-commercial or mixed residential districts, and authorize the Director of the Entertainment Commission to extend the nine-month deadline for conditional grants of Place of Entertainment permits.

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

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

Section 1. The Police Code is hereby amended by revising Sections 43.1 and 1060.5, to read as follows:

SEC. 43.1. FILING FEE.

(a) ***Filing Fee.*** Every person desiring a permit *to use a loudspeaker or sound amplifier ("Loudspeaker Permit")* pursuant to Section 43 of this Article *1* shall file an application with the Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a filing fee *specified in Section 2.26 of this Article; provided, however, that no filing fee shall be required if the Loudspeaker Permit application is for an event that receives City funding*.

(b) ***Fee Waivers.***

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

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

SEC. 1060.5. DETERMINATION OF APPLICATION FOR A PLACE OF ENTERTAINMENT PERMIT.

* * * *

(b) *Notices.*

(1) *Notice of Hearing.*

(A) Premises of the Business. The applicant shall cause a notice of the hearing *on a form provided by the Entertainment Commission* to be conspicuously and continuously posted for at least 30 days before the scheduled hearing date on the premises of the Business.

(B) Neighborhood-Commercial and Mixed Residential Districts. Where the Business is located in a neighborhood-commercial or mixed residential district, as defined in

Article 7 and 8 of the Planning Code, *the applicant shall, at least 30 days before the scheduled hearing date, mail notice of the hearing, on a form provided by the Entertainment Commission, to relevant neighborhood organizations as described in subsection 312(d)(2)(C) of the Planning Code; provided, however, that the applicant may send such notice electronically to any neighborhood organizations that have provided an electronic mailing address on the Planning Department list referenced in subsection 312(d)(2)(C).* ~~*the applicant shall also make a good faith effort to distribute leaflets at each residence located within 150 feet of the Business, unless the Entertainment Commission finds that a Business located in a district is not likely to significantly generate nighttime noise and traffic to the detriment of residences located in that immediate area. Applicants subject to the requirement of distributing leaflets shall do so at least 30 days before the scheduled hearing date and the distribution shall be done in compliance with the provisions of Article 5.7 (beginning with Section 184.69) of the Public Works Code.*~~

(C) The applicant shall file with the Commission a declaration under penalty of perjury affirming compliance with the notice requirement of subsection (b)(1)(A) and, if applicable, subsection (b)(1)(B), on the form provided by the Commission.

(D) The Director shall provide notice of the hearing at least 30 days before the hearing to any Person who has filed a written request *with the Commission* for such notice, which notice may be given electronically if the Person has provided electronic contact information, or by mail.

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

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

* * * *

(h) If a Permittee has been conditionally granted a permit but has not obtained all of the permits required from other City departments within nine months from the date that the Entertainment Commission conditionally granted the permit, the conditionally granted permit shall expire by operation of law and be void. *Notwithstanding the foregoing sentence, upon the Permittee's written request and a showing of good cause, the Commission may extend the aforementioned nine-month deadline for up to 24 months, subject to an additional extension or extensions totaling no more than 12 months beyond the aforementioned 24 months. In its discretion, the Commission may delegate to the Director, in whatever manner it deems appropriate, the power to extend the nine-month deadline.*

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Section 2. Applicability of Amendment of Police Code Section 1060.5(h). The provision in subsection (h) of Section 1060.5 of the Police Code authorizing extension of the nine-month deadline shall apply to any permits the Entertainment Commission conditionally granted within nine months prior to the effective date of the Ordinance in Board File No. 160104, in addition to permits conditionally granted after the effective date of that ordinance.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

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

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

By: Francesca Gessner
FRANCESCA GESSNER
Deputy City Attorney

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