

LEGISLATIVE DIGEST

[Police Code, Planning Code, and Business and Tax Regulations Code – Limited Live Performance Permits]

Ordinance amending Sections 2.26, 2.27, 1060, 1060.1, 1060.1-1, 1060.7.1, 1060.9, 1060.19, 1060.20.4, 1060.24, 1060.35, 2901, 2909, and 2916 of the San Francisco Police Code, adding Sections 1060.2.1, 1060.3.1, 1060.5.1, 1060.38, and 1060.38.1 to the Police Code, amending Sections 102.17, 703.2, 790.38, 803.2, 803.3, and 890.37 of the San Francisco Planning Code, and amending Section 8 of the San Francisco Business and Tax Regulations Code, 1) to create a Limited Live Performance Permit for indoor locales whose primary function is not presentation of live performances, said permit to include noise and hours restrictions but not necessarily security plan requirements; 2) to specify application and license fees and hearing requirements for said permit; and 3) making findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

Existing Law

The Police Code defines "Entertainment" broadly and requires all Places of Entertainment to obtain a Place of Entertainment (POE) Permit, without regard to such factors as whether the presentation of Entertainment is a secondary rather than primary purpose of the establishment, whether Entertainment is in the form of Live Performances, the hours during which Live Performances are presented, and the degree to which Live Performances are audible outside the establishment, if at all. As a result, restaurants, bars, cafes, and other small businesses whose primary purpose is not presentation of Entertainment must still obtain a POE Permit if they wish to have any Live Performance whatsoever. Yet the application and license fees for a POE Permit are substantial, and there must be a Security Plan for each POE Permit, requiring each location to have one or more Security Guards.

The Planning Code generally treats any use that requires a POE Permit as an entertainment land use. This category of land use comprises a broad range of activities, and does not account for the markedly different uses of land that are placed under the general rubric of entertainment land use. Regulations for entertainment uses vary widely between zoning districts. For example, in many South of Market and Eastern Neighborhoods Mixed Use Districts entertainment uses are not allowed, while in many Neighborhood Commercial Districts entertainment uses are allowed only with Conditional Use Authorization. Generally, and unlike many other land uses, an entertainment use cannot be considered an accessory use and accordingly can only be established as a principal land use.

Amendments to Current Law

The proposed ordinance would amend the Police Code to create a Limited Live Performance (LLP) Permit and amend the Planning Code to include the LLP Permit into the various definitions of entertainment-related land uses and allow uses which involve an LLP Permit as an accessory use in Zoning Districts other than (1) an SLI District that is included in the western SoMa Special Use District or (2) an RED, RSD, SLR, MUR, or MUG District. Existing restrictions on conventional entertainment uses would remain unchanged.

An establishment could not hold both a POE Permit and an LLP Permit. As compared to the POE Permit, the application process for the LLP Permit would be less complicated and less costly, and the costs of maintaining the LLP Permit would be much less. Key differences between the POE and LLP Permits are summarized below.

<p align="center">Existing Law: Place of Entertainment Permit</p>	<p align="center">Amendments to Existing Law: Limited Live Performance Permit</p>
<p align="center"><u>Definition: Place Of Entertainment</u></p> <p align="center"><i>Food/Beverages</i></p> <p>Serves food, beverages, or food and beverages for consumption on the premises</p> <p align="center"><i>Private Residence</i></p> <p>Excluded from definition</p> <p align="center"><i>Primary/Secondary Purpose of Venue</i></p> <p>Entertainment may be primary or secondary purpose of venue</p> <p align="center"><i>Area Where Entertainment Presented</i></p> <p>No square footage limit</p> <p align="center"><i>Hours of POE Permit Operation</i></p> <p>Until 2:00 a.m. (or 6:00 a.m. with Extended-Hours Premises Permit)</p>	<p align="center"><u>Definition: Limited Live Performance Locale</u></p> <p align="center"><i>Food/Beverages</i></p> <p>Same</p> <p align="center"><i>Private Residence</i></p> <p>Same</p> <p align="center"><i>Primary/Secondary Purpose of Locale</i></p> <p>Live Performance must be secondary, not primary, purpose of venue</p> <p align="center"><i>Area Where Live Performance Presented</i></p> <p>No greater than 200 square feet</p> <p align="center"><i>Hours of LLP Permit Operation</i></p> <p>Until 10:00 p.m. (or, after a year, may be extended to 11:00 p.m. by Director, based on</p>

<p style="text-align: center;"><i>Noise Limitations</i></p> <p>Compliance with noise standards under Article 29 of Police Code</p>	<p>absence of public safety or public nuisance problems). <u>Except for the North Beach Neighborhood Commercial District, the Polk Street Neighborhood Commercial District, the Union Street Neighborhood Commercial District, the north and south sides of Chestnut Street between the east side of Fillmore Street and the west side of Divisadero Street, and the north side of Lombard Street, between Fillmore Street and Divisadero Street.</u></p> <p style="text-align: center;"><i>Noise Limitations</i></p> <p>Same</p>
<p style="text-align: center;"><u>Definition of Entertainment</u></p> <p>An act, play, review, pantomime, scene, song, dance act, song and dance act, or poetry recitation; the playing of a musical instrument including but not limited to, reed, brass, percussion, or string-like instruments; karaoke; recorded music presented by a live DJ on-site; a fashion or style show; the act of a female entertainer who exposes her breast or uses a device or covering to simulate breast, or wears clothing so that breast may be observed</p>	<p style="text-align: center;"><u>Definition of Live Performance</u></p> <p>Same, except does not include (1) karaoke, (2) recorded music presented by a live DJ on-site, (3) act of female entertainer described in definition of Entertainment</p>

Application and license fees for the LLP Permit would be considerably less than for a POE permit. And, for the LLP Permit, there would be no requirement of a Security Plan or Security Guard, as there is for a POE Permit.

The Entertainment Commission Director will be required to provide a copy of all Limited Live Performance Permit applications and the corresponding public hearing notices within a specified geographic area to any Person who, in writing or by email, requests such and identifies the area. Such applications and notices shall be given at least 30 days prior to the date of the public hearings, or within 5 days after receipt of the request if the request is less than 30 days prior to the hearing.

NOTE: This legislative digest reflects an amendment made at the Board on August 2, 2011.