

File No. 110506

Committee Item No. _____
Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS
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Committee _____ Date _____

Board of Supervisors Meeting Date 9/6/11

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Amended in Board 8/2/11

Completed by: Arthur Khoo Date 8/4/11

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Police Code, Planning Code, and Business and Tax Regulations Code - Limited Live
2 Performance Permits]

3 **Ordinance amending the San Francisco Police Code Sections 2.26, 2.27, 1060, 1060.1,**
4 **1060.1-1, 1060.7.1, 1060.9, 1060.19, 1060.20.4, 1060.24, 1060.35, 2901, 2909, and 2916;**
5 **adding to the San Francisco Police Code Sections 1060.2.1, 1060.3.1, 1060.5.1, 1060.38,**
6 **and 1060.38.1; amending the San Francisco Planning Code Sections 102.17, 703.2,**
7 **790.38, 803.2, 803.3, and 890.37; and amending the San Francisco Business and Tax**
8 **Regulations Code Section 8 to: 1) create a Limited Live Performance Permit for indoor**
9 **locales whose primary function is not presentation of live performances, said permit to**
10 **include noise and hours restrictions but not necessarily security plan requirements; 2)**
11 **to specify application and license fees and hearing requirements for said permit; and 3)**
12 **making findings, including environmental findings, Planning Code Section 302**
13 **findings, and findings of consistency with the General Plan and the Priority Policies of**
14 **Planning Code Section 101.1.**

15 NOTE: Additions are *single-underline italics Times New Roman*;
16 deletions are *strike-through italics Times New Roman*.
17 Board amendment additions are double-underlined;
18 Board amendment deletions are ~~strikethrough-normal~~.

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

19 Section 1. FINDINGS.

20 (a) Currently, the San Francisco Police Code defines Entertainment broadly and
21 requires all Places of Entertainment to obtain a Place of Entertainment Permit, without regard
22 to such factors as whether the presentation of Entertainment is a secondary rather than
23 primary purpose of the establishment, whether Entertainment is in the form of Live
24 Performances, the hours during which Live Performances are presented, and the degree to
25

1 which Live Performances are audible outside, if at all. Yet these factors directly relate to the
2 degree and nature of regulation that is appropriate for an establishment at which Live
3 Performances are presented, the costs the City incurs in regulating such establishments, and
4 the impact they may have on the surrounding neighborhood. In general, establishments the
5 primary purpose of which is not to present Entertainment, but that present Live Performances
6 during evening hours only and without substantial noise emanating from the premises, do not
7 present the same regulatory challenges or impose the same enforcement costs on the City as
8 venues where Entertainment is presented under other circumstances. In particular, such
9 establishments rarely present public safety or public nuisance concerns and rarely are the
10 subject of police calls or neighbors' complaints.

11 (b) Currently, the San Francisco Planning Code generally treats any use that requires
12 a Place of Entertainment Permit as an entertainment land use. This category of land use
13 comprises a broad range of activities, from performances at regional destination nightclubs to
14 acoustic folk-music performances at coffee houses. From a planning perspective, this one-
15 size-fits-all approach is incongruous with the markedly different uses of land that are placed
16 under the general rubric of entertainment land use. For example, a live guitarist playing
17 background music at a neighborhood restaurant has little in common with a professional DJ
18 playing dance music to a crowd of hundreds in a cavernous warehouse. It is appropriate to
19 amend the Planning Code to recognize a distinction between these different types of
20 entertainment uses, to enable the City to more widely permit those uses with no adverse
21 impacts on a surrounding neighborhood, while restricting those entertainment uses which
22 could have adverse neighborhood impacts.

23 (c) The costs associated with a Place of Entertainment Permit, such as application and
24 license fees and expenses for staffing a security force, are often prohibitive for small
25 businesses, such as restaurants, bars, cafes, art galleries, and nonprofit enterprises, that may

1 desire to present Live Performances on a limited basis, secondary to the main purpose of the
2 establishment. As a result, such enterprises often forego presenting Live Performances,
3 which results in lost employment opportunities for musicians and other performers, reduced
4 earnings for the businesses affected, reduced tax revenues for the City, and reduced
5 opportunities for residents and visitors to San Francisco to enjoy music and culture in their
6 daily lives. In some cases, such enterprises do not forego presenting Live Performances, but
7 instead operate in violation of Police Code provisions requiring a permit for the presentation of
8 Entertainment, and thereby evade the existing regulatory process.

9 (d) Establishing a Limited Live Performance Permit, as defined and restricted in this
10 ordinance, will enhance employment opportunities for musicians and other performers,
11 increase earnings for businesses affected, increase City tax revenues, and increase
12 opportunities for residents and visitors to enjoy music and culture in their daily lives.
13 Establishing a Limited Live Performance Permit will further the goals of the City's Music and
14 Culture Sustainability Policy as declared in Administrative Code Chapter 90A.

15
16 Section 2. ENVIRONMENTAL AND PLANNING FINDINGS.

17 (a) The Planning Department has determined that the actions contemplated in this
18 ordinance are in compliance with the California Environmental Quality Act (California Public
19 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. _____ and is incorporated herein by reference.

21 (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
22 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
23 Planning Commission Resolution No. _____. Said resolution is on file with the Clerk of
24 the Board of Supervisors in File No. _____, and the resolution, including the reasons
25 set forth therein, is incorporated herein by reference.

1 (c) The Planning Code amendments herein are consistent with the General Plan and
 2 the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning
 3 Commission Resolution No. _____, and the Board of Supervisors incorporates those
 4 reasons herein by reference.

5
 6 Section 3. The San Francisco Police Code is hereby amended by amending Sections
 7 2.26, 2.27, 1060, 1060.1, 1060.1-1, 1060.7.1, 1060.9, 1060.19, 1060.20.4, 1060.24, 1060.35,
 8 2901, 2909, and 2916, to read as follows:

9 **SEC. 2.26. SCHEDULE OF PERMITS AND SERVICES; FILING AND SERVICE FEES.**

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

TYPE OF PERMITFILING FEE	
Permit Amendment	257
Permit Renewal (unless otherwise specified)	600
Amusement Park	0
Antique Shop	943
Auto Wrecker	1,069
Ball or Ring Throwing Games	0
Balloon and Kite Advertising	0
Billiard Parlor	456
Bingo Games	257
Charitable Organizations - Certificate of Registration	

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Sales Solicitations	130
Non-Sales Solicitations	99
Document Copies	25
ID Card	25
Circus	0
Closing-Out Sale	0
Commercial Parking (garage or lot)	455
Dance Hall Keeper	1,401
Amendment to Permit	660
One Night Dance	40
Dealer in Firearms and/or Ammunition	1,276
Renewal	364
Discharge of Cannon	636
Driverless Auto Rental	1,039
Encounter Studio	
Owner	725
Employee	202
Escort Service	
Owner	976
Employee	373
Extended Hours Permit	1,500

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Amendment to Permit	660
Fortuneteller	0
Funeral Procession Escort	353
Insignia and Uniform	0
General Soliciting Agent	252
Itinerant Show	680
Itinerant Show/Nonprofit [Fee set by Police Code Section 1017.2	100
Junk Dealer	1,358
Junk Gatherer	
Resident	768
Nonresident	841
Licensed Tour Guide	
Owner - Buses	75
Owner - Other Motorized Vehicles	694
Owner - Bicycle/Segway/Other Mechanism	483
Owner - Walking	389
Employee	114
<u>Limited Live Performance</u>	<u>385</u>
<u>Amendment to Permit</u>	<u>129</u>
Loudspeaker	416
Vehicle	416

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Masked Ball	779
Massage Establishment	1,684
Masseur/Masseuse	202
Trainee	202
Mechanical Amusement Devices	568
Mechanical Contrivance	568
Miniature Golf Course	586
Mobile Caterer	1,092
Additional Stop	257
Assistant	320
Transfer of Stop	820
Museum	645
Nude Models in Public Photographic Studio	
Owner	704
Employee	202
Off-Heliport Landing Site	667
One Time Event	255
Outcall Massage	462
Pawnbroker	925
Peddler	
Food for Human Consumption	824

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Nonfood	551
Employee	161
Pedicab Driver	165
Pedicab Owner	
First Pedicab	446
Each Additional Pedicab	161
Photographer, Public Place	
Owner	634
Solicitor	415
Photographic Solicitor	
Owner	634
Employee	227
Place of Entertainment	1,500
Amendment to Permit	660
Poker	1,259
Amendment to Permit	257
Public Bathhouse	1,122
Public Outcry Sales	1,134
Recreational Equipment Vendor	408
Rodeo Exhibition/Wild West Show	651
Second Hand Dealer	925

1	Second Hand Dealer, Auto Accessories	1,075
2	Shooting Gallery	886
3	Skating Rink	693
4	Tow Car Driver	570
5	Tow Car Firm	1,013
6	Trade-In Dealer	1,039
8	Valet Parking	
9	Fixed Location	886
10	Annual Special Event	886
11	Vehicle for Hire, Nonmotorized	966
12	Advertising and notices	165
13	Backgrounds	66
14	Fingerprints	96

17 **SEC. 2.27. SCHEDULE OF LICENSE FEES FOR PERMITS ISSUED BY THE POLICE**
18 **DEPARTMENT OR ENTERTAINMENT COMMISSION.**

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

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

22	TYPE OF PERMIT	LICENSE FEE
23	Amusement Park.....	\$0
24	Antique Shop	0

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Auto Wrecker	488
Ball or Ring Throwing Games	136
Balloon and Kite Advertising	0
Billiard Parlor	
First Table	139
Each Additional Table	14
Bingo Game	66
Circus	0
Dance Hall Keeper	424
Dealer in Firearms and/or Ammunition	452
Discharge of Cannon	49 per day
Driverless Auto Rental	322
Encounter Studio	
Owner	510
Employee	58
Escort Service	
Owner	516
Employee	90
Extended Hours Permit	505
Fortuneteller	0
Funeral Procession Escort	0

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General Soliciting Agent	88
Itinerant Show, Each Concession 43 per day	
Junk Dealer	542
Junk Gatherer	
Resident	103
Nonresident	103
Licensed Tour Guide	
Owner - Buses, per vehicle	957
Owner - Other Motorized Vehicles, per vehicle	153
Owner - Bicycle/Segway/Other Mechanisms, per mechanism	153
Owner - Walking	153
Employee	26
<i>Limited Live Performance</i>	<i>139</i>
Loudspeaker	150
Masked Ball 231 per day	
Massage Establishment	860
Masseur/Masseuse	119
Trainee 119 per 90-day permit	
Mechanical Amusement Devices	
First Machine	279

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Each Additional Machine	0
Mechanical Contrivance	0
Miniature Golf Course	164
Mobile Caterer	695
Assistant	49
Museum	206
Nude Models in Public Photographic Studio	
Owner	488
Employee	90
Off-Heliport Landing Site	38 per day
Outcall Massage	
Pawnbroker	535
Peddler	
Food for Human Consumption	747
Nonfood	199
Employee	81
Pedicab Driver	26
Pedicab Owner	0
Photographer, Public Place	
Owner	206
Solicitor	80

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Photographic Solicitor	
Owner	166
Employee	80
Place of Entertainment	486
Poker	312
Public Bathhouse	436
Public Outcry Sales	294
Recreational Equipment Vendor	312
Rodeo Exhibition/Wild West Show	0
Second Hand Dealer	0
Second Hand Dealer, Auto Accessories	0
Shooting Gallery	0
Skating Rink	0
Tow Car Driver	34
Tow Car Firm	
First Tow Truck	546
Each Additional Tow Truck	217
Trade-In Dealer	613
Valet Parking	
Fixed Location	266
Annual Special Event	166

SEC. 1060. DEFINITIONS.

For the purposes of this Article, unless otherwise provided in this Article, the following words and phrases shall mean and include:

(a) "Any Sidewalk Abutting the Premises." The sidewalk not more than 50 feet from the premises of the Business that is located between the premises and a public street. For purposes of this definition, "premises" includes any immediately adjacent area that is owned, leased, or rented by the permit applicant or Permittee.

(b) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious, benevolent, or other nonprofit organization for mutual social, mental, political, or civic welfare, to which admission is limited to members and guests if the revenue accruing therefrom is used exclusively for the benevolent purposes of said organization or agency, and if the 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.

(c) "Business." The enterprise for which a permit is sought or has been issued under this Article, whether operated on a for-profit or not-for-profit basis.

(d) "Conduct that Constitutes a Nuisance." Any conduct that would constitute a violation of the following laws: assault and battery (Cal. Penal Code § 240, 242, 245); sexual battery (Cal. Penal Code § 243.4); discharging firearm (Cal. Penal Code § 246, 246.3); unlawful weapons (Cal. Penal Code § 12020; S.F. Police Code § 1291); disturbing the peace (Cal. Penal Code § 415, 416, 417); unlawful threats (Cal. Penal Code § 422); obstruction of pedestrian or vehicle right-of-way (Cal. Penal Code § 370); gambling (Cal. Penal Code §§ 330, 337a); rape (Cal. Penal Code § 261); statutory rape (Cal. Penal Code § 261.5); prostitution and related offenses (Cal. Penal Code §§ 266, 266a, 266e, 266h, 266i, 315, 316,

1 647(b)); sex crimes for which registration is required under the Sex Offender Registration Act
2 (Cal. Penal Code § 290); felony sexual assault loitering for lewd or lascivious purposes (Cal.
3 Penal Code § 647(d)); loitering on private property without lawful business (Cal. Penal Code §
4 647(h)); identify theft (Cal. Penal Code § 530.5); a violent felony warranting enhancement of a
5 prison term (Cal. Penal Code § 667.5); criminal gang activity (Cal. Penal Code § 186.22); drug
6 offenses (Cal. Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379,
7 11378.5, 11379.5); violation of Alcohol Beverage Control laws (Cal. Business & Professions
8 Code §§ 23300, 25602, 25631, 25657, 25658); public urination or defecation (San Francisco
9 Police Code § 153); accumulation of filth (Cal. Health & Safety Code § 17920.3(j)); or
10 excessive noise emissions (San Francisco Police Code Section 49 or Article 29).

11 (e) "Corrective Action." Action which includes, but is not limited to, the following:

12 (1) Requesting assistance from the local law enforcement agency in a timely manner
13 regarding the conduct.

14 (2) Requesting those individuals engaging in Conduct that Constitutes a Nuisance to
15 cease the conduct, or ejecting those Persons from the premises.

16 (3) Revising the Security Plan, subject to approval by the Entertainment Commission
17 or the Director as provided under this Article.

18 (f) "Director." The Executive Director of the Entertainment Commission or individual
19 designated by the Director to act on his or her behalf.

20 (g) "Entertainment." Any of the following, except when conducted in a private
21 residence:

22 (1) Any act, play, review, pantomime, scene, song, dance act, song and dance act, or
23 poetry recitation, conducted in or upon any premises to which patrons or members are
24 admitted.
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1 (2) The playing or use of any instrument capable of producing or used to produce
2 musical or percussion sounds, including but not limited to, reed, brass, percussion, or string-
3 like instruments, or karaoke, or recorded music presented by a live disc jockey on the
4 premises.

5 (3) A fashion or style show.

6 (4) The act of any female entertainer, while visible to any customer, who exposes the
7 breast or employs any device or covering which is intended to simulate the breast, or wears
8 any type of clothing so that the breast may be observed.

9 (h) "Manager." The individual authorized by the Permittee to exercise discretionary
10 power to organize, direct, carry out or control the operations of the Business.

11 (i) "Permittee." The Person to whom a permit has been issued under this Article.

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

16 (k) "Police Place of Entertainment." Every premises to which patrons or members are
17 admitted which serves food, beverages, or food and beverages, including but not limited to
18 alcoholic beverages, for consumption on the premises and wherein Entertainment as defined
19 in Subsection (g) is furnished or occurs upon the premises.

20 (l) "Sale of the Business" or "Sell the Business." The sale or other transfer of the
21 ownership interest in a Business that result in a Person (who did not already have such a
22 percentage interest) owning 50% or more of the Business, regardless of the form of
23 ownership.

24 (m) "Security Guard." A person who has a valid Proprietary Private Security Officer
25 registration document issued by the California Department of Consumer Affairs; or a person

1 who is a Patrol Special Police Officer appointed by the Police Commission or an assistant to a
2 Patrol Special Police Officer and is operating in accordance with rules of the Police
3 Commission governing Patrol Special Police Officers and assistants to Patrol Special Police
4 Officers.

5 (n) "Security Plan." A plan that adequately addresses the safety of persons and
6 property by (i) providing a ratio of one Security Guard to a specific number of individuals as
7 described in the paragraph immediately below (ii) securing the sidewalk for a 100-foot radius
8 in all directions around the premises of the Business to prevent injury to persons and/or
9 damage to property, and (iii) providing for the orderly dispersal of individuals and traffic from
10 the premises of the Business and within 100 feet of any door that patrons use to enter or exit
11 the premises. The phrase "100 feet" in (iii) of this Subsection (n) means 100 feet from the
12 door in both directions on the same side of the street as the premises of the Business. The
13 plan shall include sufficient staff with the requisite experience to implement the plan.

14 The Security Plan must provide at least one Security Guard for every 100 individuals
15 anticipated to be present at any one time during Entertainment events on the premises of the
16 Business, with the following two qualifications. There must always be at least one Security
17 Guard for every 100 individuals actually present at any one time during Entertainment events
18 on the premises of the Business. Further, in those areas of the City where a conditional use
19 authorization is required for a late night use, on Thursdays, Fridays, Saturdays, and Sundays
20 from 9:00 p.m. until closing (including early morning hours Friday, Saturday, Sunday, and
21 Monday) the Security Plan must provide at least one Security Guard for every 100 individuals
22 authorized by the Occupancy Permit during Entertainment events on the premises of the
23 Business.

24 The definition of Security Plan in this Subsection 1060(n) does not limit the discretion of
25 the Entertainment Commission and Director as specified in this Article to impose more

1 stringent requirements for a Security Plan as circumstances warrant. The definition of Security
2 Plan in this Subsection 1060(n) does not apply to Limited Live Performance Permits.

3 (o) "Tax Collector." Tax Collector of the City and County of San Francisco.

4 (p) "Professional Entertainer." A person who is compensated for his or her
5 performance. This definition does not restrict the definition of "Entertainment" in Subsection
6 (g) and is relevant only to the extent the term "professional entertainer" is used in this Article.

7 (q) "Limited Live Performance Permit." A permit allowing a Limited Live Performance Locale
8 to present Live Performances.

9 (r) "Limited Live Performance Locale." A locale with all the following features:

10 (1) The presentation of Live Performances is a secondary purpose of the locale rather than its
11 primary purpose.

12 (2) The locale is indoors, with an area in which Live Performances are presented that is no
13 greater than 200 square feet.

14 (3) Live Performances presented at the locale conclude by 10 p.m., except as otherwise
15 provided in Section 1060.38.1.

16 (4) The locale is not a private residence.

17 (5) Patrons or members are admitted to the locale, which serves food, beverages, or food and
18 beverages, including but not limited to alcoholic beverages, for consumption on the premises.

19 (s) "Live Performance." Any act, play, review, pantomime, scene, song, dance act, song and
20 dance act, poetry recitation, fashion or style show, or the playing or use of any instrument capable of
21 producing or used to produce musical or percussion sounds, including but not limited to, reed, brass,
22 percussion, or string-like instruments.

23 **SEC. 1060.1. PERMIT REQUIRED.**

24 (a) It shall be unlawful for any Person to own, conduct, operate, or maintain, or to
25 cause or permit to be conducted, operated, or maintained, any Place of Entertainment, Limited

1 Live Performance Locale, or One Time Event in the City and County of San Francisco without
2 first having obtained the required permit from the Director or Entertainment Commission.

3 (b) It shall be unlawful for any Person to conduct, operate or maintain, or cause or
4 permit to be conducted, operated, or maintained, a Place of Entertainment, Limited Live
5 Performance Locale, or One Time Event for which a permit has been granted (1) after the
6 permit has been revoked or is otherwise invalid or (2) for any period of time during which the
7 permit has been suspended.

8 (c) It shall be unlawful for any Person who is required to surrender a permit upon the
9 sale of a Business as required under Section 1060.24(b) to fail to do so.

10 (d) Any place or premises where a Place of Entertainment Permit, Limited Live
11 Performance Permit, or One Time Event Permit is sought must conform to all existing health,
12 safety, zoning, and fire ordinances of the City and County of San Francisco, and must have a
13 valid permit to operate (formerly referenced in this Article as a public eating place permit) from
14 the Department of Public Health. The Entertainment Commission, including the Director in the
15 case of a One Time Event Permit, may issue a permit under this Article conditional upon the
16 applicant receiving the other required permits.

17 **SEC. 1060.1-1. LICENSE FEES.**

18 Every person granted a Place of Entertainment Permit or Limited Live Performance
19 Permit by the Entertainment Commission under this Article shall pay to the Tax Collector an
20 annual license fee, payable in advance.

21 The license fee prescribed in this Section is due and payable on a calendar year basis,
22 starting January 1st of each year. Fees for new permits issued after the first day of January of
23 a particular year shall be prorated with regard to the calendar year on a monthly basis. The
24 amount of the license fee for the 2005-2006 fiscal year shall be as set forth in Section 2.27 of
25

1 this Code, and such amount shall be adjusted for inflation commencing with the 2006-2007
2 fiscal year, and annually thereafter, in accordance with Section 2.31 of this Code.

3 **SEC. 1060.7.1. SOLICITATION OF DRINKS OR MERCHANDISE.**

4 No operator of a pPlace of eEntertainment or Limited Live Performance Locale shall
5 employ or permit any hostess, entertainer or person to solicit any patron or customer of or
6 visitor in said pPlace of eEntertainment or Limited Live Performance Locale to purchase any
7 beverage or merchandise for the one soliciting or for any other person.

8 **SEC. 1060.9. MISCELLANEOUS RULES.**

9 No professional entertainer or employee may dance with any customer on the
10 premises in any pPlace of eEntertainment or Limited Live Performance Locale.

11 **SEC. 1060.19. PERMIT FEE; EXEMPTIONS.**

12 The provisions of Section 1060.2 relating to a permit fee shall not apply to any pPlace
13 of eEntertainment or Limited Live Performance Locale used exclusively for any of the following
14 purposes:

15 (a) Places of eEntertainment or Limited Live Performance Locales that are operated by
16 any public agency or by any educational, recreational or social agency, or by any bona fide
17 fraternal, charitable, or religious or benevolent or any other nonprofit organization having a
18 regular membership association primarily for mutual social, mental, political and civic welfare,
19 to which admission is limited to members and guests and revenue accruing therefrom to be
20 used exclusively for the benevolent purposes of said organization and which organization or
21 agency is exempt from taxation under the Internal Revenue laws of the United States as a
22 bona fide fraternal, charitable, religious, benevolent or nonprofit organization.

23 **SEC. 1060.20.4. REVOCATION OF A PERMIT.**

1 (a) Grounds for Revocation. The Entertainment Commission may revoke any *Place-of*
2 *Entertainment or One-Time Event P*ermit issued under this Article if it determines after a public
3 hearing that any of the following conditions exist:

4 (1) The Permittee has knowingly made any false, misleading, or fraudulent statement
5 of material fact or has knowingly omitted a material fact in the application for a permit.

6 (2) The Permittee has failed to pay any fee or charge required under this Article.

7 (3) The Permittee has failed to surrender the permit as required by Section 1060.24(b).

8 (4) One or more of the grounds for suspension enumerated in Section 1060.20.1(a)
9 applies, and considerations of public safety warrant revocation of the permit. For purposes of
10 this provision, "considerations of public safety" means a substantial risk of physical harm or
11 injury to individuals. In determining whether considerations of public safety warrant revocation,
12 the Commission shall evaluate the likelihood and seriousness of the threat to public safety
13 that continued operation of the Business under the permit presents. In making its
14 determination, the Commission shall consider the following factors: (i) the history of violence
15 and other public safety problems associated with the operation of the Business; (ii) a pattern
16 of the Permittee's noncompliance with Security Plan requirements imposed by law or as a
17 condition of the permit; (iii) the frequency of the Permittee's violations of other provisions of
18 law or permit conditions, which violations have contributed to violence or other public safety
19 problems associated with the operation of the Business; (iv) the degree to which the
20 Permittee's action or inaction has been responsible for violence and other public safety
21 problems associated with the operation of the Business; and (v) the degree to which the City,
22 through the Entertainment Commission, Director, Police Department, or otherwise, has
23 notified the Permittee of violence or other public safety problems associated with the
24 operation of the Business and/or of the need to take action to reduce such problems, and the
25 promptness and efficacy of the Permittee's responses.

1 (5) One or more of the grounds for suspension enumerated in Section 1060.20.1(a)
2 applies, and revocation is warranted because the problems that those grounds have created
3 have been serious and continuing, and the action or inaction of the Permittee contributing to
4 those problems has been persistent; provided, that the circumstances warranting revocation
5 under this provision would constitute a public nuisance within the meaning of Section 3480 of
6 the California Civil Code.

7 (b) Hearing by Commission. The Entertainment Commission shall give the Permittee
8 and the Manager written notice of a hearing to determine whether to revoke a permit. The
9 notice shall set forth the grounds for the proposed revocation and the date, time and location
10 of the hearing.

11 (c) Application for Permit After Revocation. The revocation of a permit under this
12 Article shall not preclude the Permittee from applying for a new permit under this Article,
13 except that, notwithstanding any other provision of law, including but not limited to Sections
14 1060.5(f) and 1060.5.1(f), revocation under Section 1060.20.4(a)(4) or Section 1060.20.4(a)(5)
15 shall render the Permittee ineligible to apply for a new permit under this Article for one year
16 from the date of revocation.

17 (d) When considering whether to revoke a permit under this Article, the Commission
18 and the Director shall consider any previous denial of a permit application or previous
19 suspension or revocation of a permit, under this Article or Article 15.2, for the same permit
20 applicant or Permittee when the circumstances warranting the previous action are relevant to
21 the current determination.

22 **SEC. 1060.24. ~~PLACE OF ENTERTAINMENT~~ PERMITS NOT TRANSFERABLE; PERMIT**
23 **MUST BE SURRENDERED UPON SALE OF BUSINESS; PERMIT AMENDMENT**
24 **REQUIRED TO CHANGE PARTNERS OR OTHER OWNERS.**

1 (a) No Person may transfer a Place of Entertainment Permit or Limited Live
2 Performance Permit issued under this Article to any other Person.

3 (b) If a Place of Entertainment Permittee or Limited Live Performance Permittee Sells the
4 Business, the Permittee shall promptly surrender the permit to the Director. If the Permittee
5 fails to surrender the permit to the Director, the Director may, after giving the Permittee notice
6 by mail and electronically of the proposed action and an opportunity to respond, revoke the
7 permit.

8 (c) Notwithstanding Subsections (a) and (b) of this Section, a Permittee may change
9 partners, shareholders, or other owners of a Business provided that (1) the sale or other
10 transfer of ownership results in a Person owning no more than 50% of the Business,
11 regardless of the form of ownership, and (2) the Permittee obtains an amendment to the
12 Permit as provided in this Section. If the transfer of ownership does not result in any Person
13 (who did not already have such a percentage interest) having an ownership interest of ten
14 percent or more, the Permittee is not required to obtain a permit amendment.

15 (d) A Permittee seeking to amend a permit as required under this Section shall pay the
16 filing fee for Permit Amendment/Additional Partner set forth in Section 2.26 of this Code. The
17 applicant shall provide that portion of the information sought under Section 1060.3 or 1060.3.1
18 for an application that the Director requires.

19 (e) The Director shall determine within 30 days of the filing of a complete application to
20 amend a permit whether to approve it. The Director shall approve the application unless he or
21 she determines that denial is warranted under any of the grounds set forth in Section
22 1060.5(f) or 1060.5.1(f) and shall notify the Permittee and Manager of the approval
23 electronically and either by mail or personal delivery.

24 (f) If the Director determines that disapproval of the application may be warranted
25 under Section 1060.5(f) or 1060.5.1(f), the Director shall schedule a hearing on the matter for

1 the next regularly scheduled meeting of the Entertainment Commission. The Director shall
2 promptly provide written notice of the hearing to the Permittee and the Manager by mail and
3 electronically.

4 (g) The Entertainment Commission shall determine whether to approve the application
5 according to the standards governing the initial application set forth in Section 1060.5(f) or
6 1060.5.1(f).

7 **SEC. 1060.35. RESPONSIBLE PERSON ON PREMISES.**

8 At any time a Business is open for operation as a Place of Entertainment or Limited Live
9 Performance Locale, there shall be at least one person on the premises who is responsible for
10 the operation of the Business and who is readily available to respond to and interact with
11 Police Officers, the Director, or any other City employee or official. The Entertainment
12 Commission, in consultation with the San Francisco Police Department, shall develop rules
13 and regulations to further implement this requirement.

14 **SEC. 2901. DEFINITIONS.**

15 (a) "Ambient" means the lowest sound level repeating itself during a minimum ten-
16 minute period as measured with a type 1, precision sound level meter, using slow response
17 and "A" weighting. The minimum sound level shall be determined with the noise source at
18 issue silent, and in the same location as the measurement of the noise level of the source or
19 sources at issue. However, for purposes of this chapter, in no case shall the ambient be
20 considered or determined to be less than: (1) Thirty-five dBA for interior residential noise, and
21 (2) Forty-five dBA in all other locations. If a significant portion of the ambient is produced by
22 one or more individual identifiable sources of noise that contribute cumulatively to the sound
23 level and may be operating continuously during the minimum ten-minute measurement period,
24 determination of the ambient shall be accomplished with these separate identifiable noise
25 sources silent or otherwise removed or subtracted from the measured ambient sound level.

1 (b) "Director" means the Director or department head of any City department having
2 administrative or enforcement responsibilities under this Article or any other provision of the
3 Municipal Code regarding noise control, as well as his or her designee.

4 (c) "Dwelling Unit" means (1) a dwelling space consisting of essentially complete
5 independent living facilities for one or more persons, including, for example, permanent
6 provisions for living and sleeping; (2) a room in group housing, even if such room lacks private
7 cooking facilities and private plumbing facilities, such as rooms in senior citizen housing,
8 single room occupancy or residential hotels, dorms, hostels, or shelters; or, (3) a
9 housekeeping room as defined in the Housing Code.

10 (d) "Emergency work" means work made necessary to restore property to a safe
11 condition following a public calamity or work required to protect persons or property from an
12 imminent exposure to danger or work by private or public utilities when restoring utility service.
13 This term shall not include testing of emergency equipment.

14 (e) "Fixed source" means a machine or device capable of creating a noise level at the
15 property upon which it is regularly located, including but not limited to: industrial and
16 commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or
17 refrigeration machines.

18 (f) "Low frequency ambient" means the lowest sound level repeating itself during a ten-
19 minute period as measured with a sound level meter, using slow response and "C" weighting.
20 The minimum sound level shall be determined with the music or entertainment noise source at
21 issue silent, and in the same location as the measurement of the noise level of the source or
22 sources at issue. However, for purposes of this chapter, in no case shall the local ambient be
23 considered or determined to be less than: (1) Forty-five dBC for interior residential noise, and
24 (2) Fifty-five dBC in all other locations. If a significant portion of the ambient is produced by
25 one or more individual identifiable sources that would otherwise be operating continuously

1 during the minimum ten-minute measurement period, determination of the low-frequency
2 ambient shall be accomplished with these separate identifiable noise sources silent or
3 otherwise removed or subtracted from the measured ambient sound.

4 (g) "Noise level" means the maximum continuous sound level or repetitive peak sound
5 level, produced by a source or group of sources as measured with a sound level meter. In
6 order to measure a noise level, the controls of the sound level meter should be arranged to
7 the setting appropriate to the type of noise being measured. For example, the settings should
8 be slow response for continuous noise sources and fast response for noises with rapid onset
9 and decline.

10 (h) "Person" means a person, firm, association, copartnership, joint venture,
11 corporation, or any entity, public or private in nature.

12 (i) "Place of Entertainment" has the same meaning as the term is defined in San
13 Francisco Police Code Section 1060.

14 (j) "Powered construction equipment" means any tools, machinery, or equipment used
15 in connection with construction operations which can be driven by energy in any form other
16 than manpower, including all types of motor vehicles when used in the construction process of
17 any construction site, regardless of whether such construction site be located on-highway or
18 off-highway, and further including all helicopters or other aircraft when used in the
19 construction process except as may be preempted for regulation by State or Federal law.

20 (k) "Property plane" means a vertical plane including the property line that determines
21 the property boundaries in space.

22 (l) "Public Property " means property leased or owned by a governmental entity, to
23 which the public or a substantial group of persons has access, including but not limited to any
24 street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or
25 playground located within the City and County of San Francisco.

1 (m) "Residential Property" means any property that has at least one dwelling unit and
2 has been approved for human habitation by the City and County of San Francisco.

3 (n) "Sound level," expressed in decibels (dB), means a logarithmic indication of the
4 ratio between the acoustic energy present at a given location and the lowest amount of
5 acoustic energy audible to sensitive human ears and weighted by frequency to account for
6 characteristics of human hearing, as given in the American National Standards Institute
7 Standard S1.1, "Acoustic Terminology," paragraph 2.9, or successor reference. All references
8 to dB in this chapter refer to the A-level or C-level weighting scale, abbreviated dBA or dBC,
9 measured as set forth in this section.

10 (o) "Limited Live Performance Locale" has the same meaning as the term is defined in San
11 Francisco Police Code Section 1060.

12 **SEC. 2909. NOISE LIMITS.**

13 (a) **Residential Property Noise Limits.**

14 (1) No person shall produce or allow to be produced by any machine, or device, music
15 or entertainment or any combination of same, on residential property over which the person
16 has ownership or control, a noise level more than five dBA above the ambient at any point
17 outside of the property plane.

18 (2) No person shall produce or allow to be produced by any machine, or device, music
19 or entertainment or any combination of same, on multi-unit residential property over which the
20 person has ownership or control, a noise level more than five dBA above the local ambient
21 three feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when
22 the windows and doors of the dwelling unit are closed, except within the dwelling unit in which
23 the noise source or sources may be located.

24 (b) **Commercial And Industrial Property Noise Limits.** No person shall produce or
25 allow to be produced by any machine or device, music or entertainment or any combination of

1 same, on commercial or industrial property over which the person has ownership or control, a
2 noise level more than eight dBA above the local ambient at any point outside of the property
3 plane. With respect to noise generated from a licensed Place of Entertainment or licensed
4 Limited Live Performance Locale, in addition to the above dBA criteria a secondary low
5 frequency dBC criteria shall apply to the definition above. No noise or music associated with
6 a licensed Place of Entertainment or licensed Limited Live Performance Locale shall exceed the
7 low frequency ambient noise level defined in Section 2901(f) by more than 8 dBC.

8 (c) **Public Property Noise Limits.** No person shall produce or allow to be produced
9 by any machine or device, or any combination of same, on public property, a noise level more
10 than ten dBA above the local ambient at a distance of twenty-five feet or more, unless the
11 machine or device is being operated to serve or maintain the property or as otherwise
12 provided in this Article.

13 (d) **Fixed Residential Interior Noise Limits.** In order to prevent sleep disturbance,
14 protect public health and prevent the acoustical environment from progressive deterioration
15 due to the increasing use and influence of mechanical equipment, no fixed noise source may
16 cause the noise level measured inside any sleeping or living room in any dwelling unit located
17 on residential property to exceed 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. or 55
18 dBA between the hours of 7:00 a.m. to 10:00p.m. with windows open except where building
19 ventilation is achieved through mechanical systems that allow windows to remain closed.

20 (e) **Noise Caused By Activities Subject To Permits From the City and County of**
21 **San Francisco.** None of the noise limits set forth in this Section apply to activity for which the
22 City and County of San Francisco has issued a permit that contains noise limit provisions that
23 are different from those set forth in this Article.

24 **SEC. 2916. ENFORCEMENT.**

1 The Director of Public Health may enforce the provisions of Section 2904, 2909, and
2 2912 of this Article.

3 The Department of Building Inspection may enforce the provisions of Sections 2907
4 and 2908 of this Article insofar as said provisions relate to construction operations conducted
5 on private property under appropriate permits issued pursuant to the San Francisco Building
6 Code, Housing Code, Electrical Code and Plumbing Code. Insofar as these provisions relate
7 to construction operations conducted on publicly-owned property subject to the police power
8 of the City and County of San Francisco, the Department of Public Works may enforce the
9 provisions of Sections 2907 and 2908 of this Article. The Executive Director of the
10 Entertainment Commission may enforce noise standards associated with licensed Places of
11 Entertainment *and licensed Limited Live Performance Locales*.

12 The Chief of Police may enforce the provisions of this Article that relate to noise
13 created by humans or any other noise source not specifically assigned or designated to
14 another Department or Agency.

15
16 Section 4. The San Francisco Police Code is hereby amended by adding Sections
17 1060.2.1, 1060.3.1, 1060.5.1, 1060.38, and 1060.38.1, to read as follows:

18 **SEC. 1060.2.1. FILING APPLICATION AND NOTICE TO OTHER CITY DEPARTMENTS FOR**
19 **LIMITED LIVE PERFORMANCE PERMIT.**

20 *(a) Every Person seeking a Limited Live Performance Permit, or an amendment to such a*
21 *permit, shall file an application with the Entertainment Commission upon a form provided by the*
22 *Entertainment Commission and shall pay a filing fee as provided in Section 2.26 of this Code.*

23 *(b) The Director shall send the application to the San Francisco Police Department and the*
24 *Planning Department. Those departments shall complete all necessary inspections and report their*
25

1 determinations to the Entertainment Commission within 20 City business days of receiving the
2 application.

3 **SEC. 1060.3.1. APPLICATION FORM FOR LIMITED LIVE PERFORMANCE PERMIT.**

4 An application for a Limited Live Performance Permit shall specify the following and be signed
5 under penalty of perjury:

6 (a) The name and street address of the Business for which the permit is sought.

7 (b) The name and address of the applicant as follows:

8 (1) If the applicant is a corporation, the name of the corporation exactly as shown in its articles
9 of incorporation; the date and place of incorporation; and the name and address of each officer and
10 director.

11 (2) If the applicant is a Person other than a publicly traded company, the name and address of
12 every Person that directly or indirectly owns or controls 10% or more of the assets, ownership interests
13 or voting interests in that Person.

14 (c) The name of and contact information for the Manager who shall directly, or through
15 designees, be on the premises during all hours of operation.

16 (d) The name and address of each Person who appears on the business registration certificate
17 for the Business for which a permit is sought.

18 (e) The name and address of each Person to whom the Department of Alcoholic Beverage
19 Control has issued a license for the Business for which a permit is sought.

20 (f) The names and addresses of the Persons who have or will have authority or control over the
21 Business and a brief statement of the nature and extent of such authority and control, if the applicant
22 has not otherwise provided this information in the application.

23 (g) The name and address of the Person authorized to accept service of process.

24 (h) A plan for the Business to operate as a Limited Live Performance Locale, specifying the
25 days and hours of operation, the number of employees and their duties, the number of patrons, a

1 statement certifying that the Business shall comply with the maximum occupancy load for the space as
2 established under the San Francisco Building and Fire Codes, the types or classes of live performances
3 (in terms of the types of instruments, numbers of performers, and sound levels) to be provided, and the
4 amount of parking, both on and off-site, to be provided. If sound amplification is to be used, the plan
5 shall also include a specific description of the amplification system.

6 (i) Such further information as the Entertainment Commission requires regarding financial and
7 lease arrangements and management, authority, and operational control of the Business or its premises
8 when the information will assist the Commission in its determination whether to grant or deny the
9 permit.

10 **SEC. 1060.5.1. DETERMINATION OF APPLICATION FOR A LIMITED LIVE**
11 **PERFORMANCE PERMIT.**

12 (a) The applicant shall file the application for a Limited Live Performance Permit with the
13 Director. The Director may require that the applicant or the applicant's agent file the application in
14 person. Upon determining that an application is complete, the Director shall accept and file it and
15 shall schedule a public hearing before the Entertainment Commission to determine whether the permit
16 should be granted. The Director shall provide written notice of the hearing to the applicant by mail or
17 to the applicant's agent by personal delivery at least 30 days before the date of the hearing.

18 (b)(1) The applicant shall cause a notice of the hearing to be conspicuously and continuously
19 posted on the premises of the Business for at least 30 days before the scheduled hearing date. The
20 Director shall promptly provide notice of the hearing to any Person who has filed a written request for
21 such notice, which notice may be given electronically if the Person has provided electronic contact
22 information, or by mail.

23 (2) The Director shall provide a copy of all Limited Live Performance Permit
24 applications and the corresponding public hearing notices within a specified geographic area
25 to any Person who, in writing or by email, requests such and identifies the area. Such

1 applications and notices shall be given at least 30 days prior to the date of the public
2 hearings, or within 5 days after receipt of the request if the request is less than 30 days prior
3 to the hearing.

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

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

12 (c) At the hearing on the application, the applicant and any other interested party, including
13 the Police Department or any other public agency, may introduce evidence and present argument
14 relating to the standards for review under Subsection (f).

15 (d) The Entertainment Commission shall hold a hearing and determine whether to grant or
16 deny the permit within 45 City business days of the date that the applicant has submitted a complete
17 application under Section 1060.5-1(a), except that this 45 day period shall be extended for such period
18 or periods of time that apply under any of the following circumstances:

19 (1) If the Entertainment Commission finds that an extension of time is necessary to obtain
20 additional information for its review of the application under the standards set forth in Subsection (f) of
21 this Section, the time period shall be extended for an additional amount of time as the Commission
22 determines appropriate, up to 15 additional days.

23 (2) Upon the applicant's request, the Entertainment Commission shall continue the hearing for
24 an additional period of time to allow the applicant an opportunity to comply with the requirements of
25 this Article, in which case the time period is extended for that additional period.

1 (3) If the applicant fails to post or maintain notice of the hearing as required by Subsection (b)
2 of this Section, the Director shall have the hearing before the Entertainment Commission continued for
3 such period or periods of time that the Director determines necessary for the applicant to comply with
4 the posting requirement, in which case the time period is extended for that additional period or periods
5 of time.

6 (4) If the Director finds that the Commission is unable to meet during the 45-day time period or
7 any permitted time extension due to exigent circumstances, the time period shall be extended until the
8 Commission is able to meet; the Commission shall consider the matter at the first meeting that it
9 conducts following such circumstances.

10 (e)(1) If the permit applicant has not obtained all permits required for the Business from other
11 City departments by the date of the hearing on the application, the Entertainment Commission may
12 grant a conditional permit pending the issuance of the other required City permits; provided, however,
13 the Commission shall take this action only if sufficient information has been provided to allow for
14 adequate evaluation of the application and if grounds for denial, as set forth in Subsection (f), are not
15 present. Any permit conditionally granted by the Entertainment Commission under this
16 Subsection(e)(1) may be appealed to the Board of Appeals. Any such appeal shall be filed within 10
17 days of the decision of the Entertainment Commission's conditionally granting the permit. No Person
18 may operate a Business for which a permit has been conditionally granted unless and until the Person
19 has obtained all permits and authorizations required from other City departments.

20 (2) If the Entertainment Commission does not grant, conditionally grant or deny the permit for
21 a Limited Live Performance Locale within the time required by Subsection (d), including any
22 extensions of time provided for therein, the permit sought by the applicant shall be deemed granted,
23 conditioned on the requirements that the Permittee obtain all required permits from other City
24 departments within nine months and comply with all the requirements of this Article. The time by
25

1 which the Entertainment Commission must act commences on the date that the applicant has filed a
2 completed application under Section 1060.5-1(a).

3 (f) The Entertainment Commission shall grant or conditionally grant a Limited Live
4 Performance Permit pursuant to this Article unless it finds that:

5 (1) The premises or the proposed operation of the Business does not comply with the health,
6 zoning, fire, and safety requirements of the laws of the State of California or ordinances of the City and
7 County of San Francisco applicable to the Business; or

8 (2) The establishment does not qualify as a Limited Live Performance Locale as defined in
9 Section 1060(r); or

10 (3) The presentation of Live Performances at the Limited Live Performance Locale will (i)
11 generate the type and volume of vehicle and pedestrian traffic that will cause substantial congestion,
12 (ii) adversely affect the safety and security of persons, (iii) impede the orderly dispersal of individuals
13 and traffic, or (iv) otherwise substantially interfere with the public health, safety, and welfare or the
14 peaceful enjoyment of neighboring property due to excessive noise or any other factor. The
15 Commission may impose conditions on the permit, including a security plan or time, place, and manner
16 restrictions, if necessary and appropriate to guard against these adverse effects. The Limited Live
17 Performance Permit is subject to Article 29 of the Police Code, regulating noise.

18 (g) If there is an unresolved citation applicable to the premises that has been issued by a City
19 department, the Entertainment Commission shall not grant the permit without documented
20 authorization from the department that issued the citation.

21 (h) In considering whether to make any of the findings stated in Subsections (f)(1)-(3), or to
22 impose conditions on a Limited Live Performance Permit, the Commission shall consider where
23 relevant the circumstances surrounding any previous denial of a permit application or previous
24 suspension or revocation of a permit, under this Article or Article 15.2, for the same permit applicant
25 or Permittee.

1 (i) If a Permittee has been conditionally granted a permit but has not obtained all of the
2 permits required from other City departments within nine months from the date that the Entertainment
3 Commission conditionally granted the permit, the conditionally granted permit shall expire by
4 operation of law and be void.

5 **SEC. 1060.38. RELATIONSHIP OF LIMITED LIVE PERFORMANCE PERMIT TO OTHER**
6 **PERMITS.**

7 (a) A Person may not simultaneously hold a Place of Entertainment Permit and a Limited Live
8 Performance Permit for the same location.

9 (1) If a Person holds a Place of Entertainment Permit and applies for a Limited Live
10 Performance Permit for the same location, and the Commission grants the application, the Limited
11 Live Performance Permit shall become operative only upon the Person's relinquishment of the Place of
12 Entertainment Permit.

13 (2) If a Person holds a Limited Live Performance Permit and applies for a Place of
14 Entertainment Permit for the same location, and if the Commission grants the application, the Place of
15 Entertainment Permit shall become operative only upon the Person's relinquishment of the Limited Live
16 Performance Permit.

17 (b) Subject to the requirements of the Planning Code, the Commission may issue a One Time
18 Event Permit to the holder of a Limited Live Performance Permit, provided that the standards for
19 issuance of the One Time Event Permit are met, including but not limited to the maximum number of
20 such permits that may be issued for a venue under Subsection 1060.29(d).

21 (c) Subject to the requirements of the Planning Code, the Commission may issue an Extended-
22 Hours Premises Permit to the holder of a Limited Live Performance Permit, provided that the
23 standards for issuance of the Extended-Hours Premises Permit are met.

24 **SEC. 1060.38.1. EXTENSION OF EVENING HOURS LIMIT FOR LIMITED LIVE**
25 **PERFORMANCE PERMIT.**

1 (a) Notwithstanding Section 1060(r)(3), and except as provided in subsection (b), below,
2 at any time after a year has elapsed since the granting of a Limited Live Performance Permit, the
3 Director may, upon application of the Permittee, extend the hours during which Live Performances
4 may be presented at the Limited Live Performance Locale to any time between 10:00 p.m. and 11:00
5 p.m., inclusive, on the basis that there have been no significant public safety or public nuisance
6 concerns at or near the establishment attributed to the operation of the Limited Live Performance
7 Permit. If the Director denies the application for an extension of hours, the Permittee may appeal the
8 Director's decision to the Entertainment Commission, and the process for notifying the Permittee of the
9 Director's decision and providing an appeal right to the Entertainment Commission shall parallel to
10 the extent applicable the notice and appeal process prescribed in Section 1060.20.2(b).

11 (b) No extension may be granted as provided in subsection (a), above, for Limited Live
12 Performance Permits granted in the following areas: the North Beach Neighborhood
13 Commercial District as defined in Planning Code Section 722.1; and the Polk Street
14 Neighborhood Commercial District as defined in Planning Code Section 723.1; the Union
15 Street Neighborhood Commercial District as defined in Planning Code Section 725.1; the
16 north and south sides of Chestnut Street between the east side of Fillmore Street and the
17 west side of Divisadero Street, and the north side of Lombard Street, between Fillmore Street
18 and Divisadero Street.

19 (bc) If, following the Director's granting, pursuant to Subsection (a), an extension of hours
20 during which Live Performances may be presented at a Limited Live Performance Locale, there are
21 significant public safety or public nuisance concerns at or near the establishment attributed to the
22 operation of the Limited Live Performance Permit, the Director may reduce the hours during which
23 Live Performances may be presented at the establishment to an earlier time, but no earlier than 10:00
24 p.m. The process for notifying the Permittee of the Director's order and providing an appeal right to
25

1 the Entertainment Commission shall parallel to the extent applicable the notice and appeal process
2 prescribed in Section 1060.20.2(b).

3 (ed) This Section shall not limit the permitting, suspension, revocation, or other powers of the
4 Director or Entertainment Commission.

5
6 Section 5. The San Francisco Business and Tax Regulations Code is hereby amended
7 by amending Section 8, to read as follows:

8 **SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS.**

9 Except for variance decisions and place of entertainment, limited live performance,
10 extended hours premises, and loudspeaker permits issued by the Entertainment Commission,
11 appeals to the Board of Appeals shall be taken within 15 days from the making or entry of the
12 order or decision from which the appeal is taken. Appeals of variance decisions shall be taken
13 within 10 days.

14 Appeals of actions taken on the granting, denial, amendment, suspension, or
15 revocation of a Place of Entertainment, Limited Live Performance, One Time Event, or
16 Extended-Hours Premises Permit, or on denial of exceptions from regulations for Extended-
17 Hours Premises Permit, shall be taken within 10 days from the making of the decision.
18 Nothing in this Section is intended to require an appeal to the Board of Appeals if any
19 provision of Article 15.1 (Entertainment Regulations Permit and License Provisions) or Article
20 15.2 (Entertainment Regulations for Extended-Hours Premises) of the Police Code governing
21 these permits otherwise provides. Appeals shall be taken by filing a notice of appeal with the
22 Board of Appeals and paying to said Board at such time a filing fee as follows:

23 (a) Zoning Administrator, Planning Department, Director of Planning and Planning
24 Commission.

1 (1) For each appeal from the Zoning Administrator's variance decision the fee shall be
2 \$600.

3 (2) For each appeal from any order, requirement, decision or other determination
4 (other than a variance) made by the Zoning Administrator, the Planning Department or
5 Commission or the Director of Planning, including an appeal from disapproval of a permit
6 which results from such an action, the fee shall be \$600.

7 (b) Department of Building Inspection.

8 (1) For each appeal from a Department of Building Inspection denial, conditional
9 approval or granting of a residential hotel or apartment conversion permit the fee shall be
10 \$525.

11 (2) For each appeal from the granting or denial of a building demolition, or other permit
12 (other than residential hotel conversion) the fee shall be \$175.

13 (3) For each appeal from the imposition of a penalty only the fee shall be \$300.

14 (c) Police Department and Entertainment Commission.

15 (1) For each appeal from the denial or granting of a permit or license issued by the
16 Police Department or Entertainment Commission to the owner or operator of a business the
17 fee shall be \$375; for each such permit or license issued to an individual employed by or
18 working under contract to a business, the fee shall be \$150.

19 (2) For each appeal from the revocation or suspension of a permit or license by the
20 Police Department or Entertainment Commission the fee shall be \$375 for an entity or
21 individual.

22 (d) Department of Public Works. For each appeal from the decision of the Director of
23 the Department of Public Works concerning street tree removal by a City agency,
24 commission, or department the fee shall be \$100.

25 (e) For each appeal from any other order or decision the fee shall be \$300.

1 (f) For requests for rehearing under Section 16 of this Article the fee shall be \$150.

2 (g) For requests for jurisdiction the fee shall be \$150.

3 (h) An exemption from paying the full fee specified in Subsections (a), (b), (c), (d), (e);
4 (f), and (g) herein may be granted upon the filing under penalty of perjury of a declaration of
5 indigency on the form provided and approved by the Board. All agencies of the City and
6 County of San Francisco are exempted from these fees.

7 (i) Additional Requirements.

8 (1) Notice of appeal shall be in such form as may be provided by the rules of the Board
9 of Appeals.

10 (2) On the filing of any appeal, the Board of Appeals shall notify in writing the
11 department, board, commission, officer or other person from whose action the appeal is taken
12 of such appeal. On the filing of any appeal concerning a structural addition to an existing
13 building, the Board of Appeals shall additionally notify in writing the property owners of
14 buildings immediately adjacent to the subject building.

15 (3) The Board of Appeals shall fix the time and place of hearing, which shall be not
16 less than 10 nor more than 45 days after the filing of said appeal, and shall act thereon not
17 later than 60 days after such filing or a reasonable time thereafter. In the case of a fixed
18 pedestal newsrack permit, a place of entertainment permit, a limited live performance permit, or
19 an extended-hours premises permit, the Board of Appeals shall set the hearing not less than
20 15 days after the filing of said appeal, shall act thereon not more than 30 days after such
21 filing, and shall not entertain a motion for rehearing.

22 (4) With respect to any decision of the Board of Appeals related to any "dwelling" in
23 which "protected class members" are likely to reside (each as defined in Administrative Code
24 Chapter 87), the Board of Appeals shall comply with the requirements of Administrative Code
25 Chapter 87 which requires, among other things, that the Board of Appeals not base any

1 decision regarding the development of such units on information which may be discriminatory
2 to any member of a "protected class."

3 (5) Pending decision by the Board of Appeals, the action of such department, board,
4 commission, officer or other person from which an appeal is taken, shall be suspended,
5 except for (1) actions of revocation or suspension of permit by the Director of Public Health
6 when determined by the Director to be an extreme public health hazard and (2) actions by the
7 Zoning Administrator or Director of the Department of Building Inspection stopping work under
8 or suspending an issued permit, and (3) actions of suspension or revocation by the
9 Entertainment Commission or the Director of the Entertainment Commission of a Place of
10 Entertainment, Limited Live Performance, One Time Event, or Extended-Hours Premises permit
11 when the suspending or revoking authority determines that ongoing operation of the activity
12 during the appeal to the Board of Appeals would pose a serious threat to public safety.

13
14 Section 6. The San Francisco Planning Code is hereby amended by amending
15 Sections 102.17, 703.2, 790.38, 803.2, 803.3, and 890.37, to read as follows:

16 **SEC. 102.17. NIGHTTIME ENTERTAINMENT USES.**

17 Nighttime entertainment uses shall include dance halls, discotheques, nightclubs,
18 private clubs, and other similar evening-oriented entertainment activities which require ~~dance~~
19 ~~hall keeper police permits or p~~Place of ~~e~~Entertainment ~~or Limited Live Performance police permits,~~
20 as defined in Section 1060 of the Police Code, which are not limited to non-amplified live
21 entertainment, including restaurants and bars which present such activities, but shall not
22 include any arts activities or space as defined in Section 102.2 of this Code, any theater
23 performance space which does not serve alcoholic beverages during performances, or any
24 temporary uses permitted pursuant to Sections 205 through 205.3 of this Code.

25 **SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

1 A use is the specific purpose for which a property or building is used, occupied,
 2 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or
 3 summarized and cross-referenced in Sections 710.1 through 730.95 of this Code for each
 4 district class.

5 (a) **Use Categories.** The uses, functions, or activities, which are permitted in each
 6 Neighborhood Commercial District class include those listed below by zoning control category
 7 and number and cross-referenced to the Code Section containing the definition.

No.	Zoning Control Categories for Uses.	Section Number of Use Definition
.24	Outdoor Activity Area	§ 790.70
.25	Drive-Up Facility	§ 790.30
.26	Walk-Up Facility	§ 790.140
.27	Hours of Operation	§ 790.48
.38	Residential Conversion	§ 790.84
.39	Residential Demolition	§ 790.86
.40	Other Retail Sales and Services	§ 790.102
.41	Bar	§ 790.22
.42	Full-Service Restaurant	§ 790.92
.43	Large Fast-Food Restaurant	§ 790.90
.44	Small Self-Service Restaurant	§ 790.91
.45	Liquor Store	§ 790.55

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.46	Movie Theater	\$ 790.64
.47	Adult Entertainment	\$ 790.36
.48	Other Entertainment	\$ 790.38
.49	Financial Service	\$ 790.110
.50	Limited Financial Service	\$ 790.112
.51	Medical Service	\$ 790.114
.52	Personal Service	\$ 790.116
.53	Business or Professional Service	\$ 790.108
.54	Massage Establishment	\$ 790.60
.55	Tourist Hotel	\$ 790.46
.56	Automobile Parking	\$ 790.8
.57	Automotive Gas Station	\$ 790.14
.58	Automotive Service Station	\$ 790.17
.59	Automotive Repair	\$ 790.15
.60	Automotive Wash	\$ 790.18
.61	Automobile Sale or Rental	\$ 790.12
.62	Animal Hospital	\$ 790.6
.63	Ambulance Service	\$ 790.2
.64	Mortuary	\$ 790.62
.65	Trade Shop	\$ 790.124
.66	Storage	\$ 790.117

1	.67	Video Store	§ 790.135
2	.68	Fringe Financial Service	§ 790.111
3	.69A	Self-Service Specialty Food	§ 790.93
4	.70	Administrative Service	§ 790.106
5	.80	Hospital or Medical Center	§ 790.44
6	.81	Other Institutions, Large	§ 790.50
7	.82	Other Institutions, Small	§ 790.51
8	.83	Public Use	§ 790.80
9	.84	Medical Cannabis Dispensary	§ 790.141
10	.90	Residential Use	§ 790.88
11	.95	Community Residential Parking	§ 790.10

14 **(b) Use Limitations.** The uses permitted in Neighborhood Commercial Districts are
15 either principal, conditional, accessory, or temporary uses as stated in this Section, and
16 include those uses set forth or summarized and cross-referenced in the zoning control
17 categories as listed in Paragraph (a) in Sections 710.1 through 729.95 of this Code for each
18 district class.

19 **(1) Permitted Uses.** All permitted uses shall be conducted within an enclosed
20 building in Neighborhood Commercial Districts, unless otherwise specifically allowed in this
21 Code. Exceptions from this requirement are: uses which, when located outside of a building,
22 qualify as an outdoor activity area, as defined in Section 790.70 of this Code; accessory off-
23 street parking and loading and other uses listed below which function primarily as open-air
24 uses, or which may be appropriate if located on an open lot, outside a building, or within a
25

1 partially enclosed building, subject to other limitations of this Article 7 and other sections of
2 this Code.

No.	Zoning Control Category
.56	Automobile Parking
.57	Automotive Gas Station
.58	Automotive Service Station
.60	Automotive Wash
.61	Automobile Sale or Rental
.81	Other Institutions, Large (selected)
.83	Public Use (selected)
.95	Community Residential Parking

14 If there are two or more uses in a structure and none is classified below under Section
15 703.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered
16 separately as independent principal, conditional or temporary uses.

17 **(A) Principal Uses.** Principal uses are permitted as of right in a Neighborhood
18 Commercial District, when so indicated in Sections 710.1 through 729.95 of this Code for
19 each district class.

20 **(B) Conditional Uses.** Conditional uses are permitted in a Neighborhood Commercial
21 District when authorized by the Planning Commission; whether a use is conditional in a given
22 district is indicated in Sections 710.10 through 729.95. Conditional uses are subject to the
23 provisions set forth in Sections 178, 179, 303, and 316 through 316.8 of this Code.

24 (i) An establishment which sells beer or wine with motor vehicle fuel is a conditional
25 use, and shall be governed by Section 229.

1 (ii) Notwithstanding any other provision of this Article, a change in use or demolition of
2 a movie theater use, as set forth in Section 790.64, shall require conditional use authorization.
3 This Subsection shall not authorize a change in use if the new use or uses are otherwise
4 prohibited.

5 (iii) Notwithstanding any other provision of this Article, a change in use or demolition of
6 a general grocery store use, as defined in Section 790.102(a), which use exceeds 5,000 gross
7 square feet shall require conditional use authorization. This Subsection shall not authorize a
8 change in use if the new use or uses are otherwise prohibited.

9 **(C) Accessory Uses.** Except as prohibited in Section 728 and subject to the
10 limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R and
11 NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and
12 Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the
13 operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental
14 and subordinate to any such use, shall be permitted as an accessory use when located on the
15 same lot. Any use which does not qualify as an accessory use shall be classified as a
16 principal or conditional use, unless it qualifies as a temporary use under Sections 205 through
17 205.2 of this Code.

18 No use will be considered accessory to a permitted principal or conditional use which
19 involves or requires any of the following:

20 (i) The use of more than 1/3 of the total floor area occupied by such use and the
21 principal or conditional use to which it is accessory, except in the case of accessory off-street
22 parking and loading;

23 (ii) Any bar, or restaurant, ~~other entertainment~~, or any other retail establishment which
24 serves liquor for consumption on-site;

1 (iii) Any take-out food use, as defined in Section 790.122, except for a take-out food
2 use which occupies 100 square feet or less (including the area devoted to food preparation
3 and service and excluding storage and waiting areas) in a general grocery or specialty
4 grocery store;

5 (iv) Any take-out food use, as defined in Section 790.122, except for a take-out food
6 use operating as a minor and incidental use within a full-service restaurant;

7 (v) The wholesaling, manufacturing or processing of foods, goods, or commodities on
8 the premises of an establishment which does not also use or provide for primarily retail sale of
9 such foods, goods or commodities at the same location where such wholesaling,
10 manufacturing or processing takes place.

11 (vi) Any retail liquor sales, as defined in Section 790.55, except for beer, wine, and/or
12 liquor sales for the consumption off the premises with a State of California Alcoholic Beverage
13 Control ("ABC") Board License type (off-sale beer and wine) or type 21 (off-sale general)
14 which occupy less than 15% of the gross square footage of the establishment (including all
15 areas devoted to the display and sale of alcoholic beverages) in a general grocery store,
16 specialty grocery store, or self-service specialty food use.

17 The foregoing rules shall not prohibit take-out food activity which operates in
18 conjunction with a fast-food restaurant or a self-service restaurant. A fast-food restaurant or a
19 self-service restaurant, by definition, includes take-out food as an accessory and necessary
20 part of its operation.

21 (vii) Any other entertainment use, as defined in Section 790.38, except for one that involves a
22 Limited Live Performance Permit as set forth in Police Code Section 1060 et seq.

23 **(D) Temporary Uses.** Temporary uses are permitted uses, subject to the provisions
24 set forth in Section 205 of this Code.

25 **(2) Not Permitted Uses.**

1 (A) Uses which are not specifically listed in this Article are not permitted unless they
2 qualify as a nonconforming use pursuant to Sections 180 through 186.1 of this Code or are
3 determined by the Zoning Administrator to be permitted uses in accordance with Section
4 307(a) of this Code.

5 (B) No use, even though listed as a permitted use, shall be permitted in a
6 Neighborhood Commercial District which, by reason of its nature or manner of operation,
7 creates conditions that are hazardous, noxious, or offensive through the emission of odor,
8 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive
9 noise.

10 (C) The establishment of a use that sells alcoholic beverages, other than beer and
11 wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section 229
12 Except in the SoMa NCT, where these uses are permitted accessory uses.

13 **SEC. 790.38. ENTERTAINMENT, OTHER.**

14 A retail use, other than adult entertainment, as defined in Section 790.36 of this Code,
15 which provides live entertainment, including dramatic and musical performances, and/or
16 ~~operates as a dance hall which~~ provides amplified taped music for dancing on the premises,
17 including but not limited to Places of Entertainment and Limited Live Performance Locales, as ~~those~~
18 defined in Section 1060 of the Police Code, and which is adequately soundproofed or
19 insulated so as to confine incidental noise to the premises. Other entertainment also includes
20 a bowling alley, billiard parlor, shooting gallery, skating rink and other commercial recreational
21 activity, but it excludes amusement game arcades, as defined in Section 790.4 of this Code
22 and regulated in Section 1036 of the Police Code.

23 **SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.**

24 A use is the specific purpose for which a property or building is used, occupied,
25 maintained, or leased. Whether or not a use is permitted in a specific Chinatown Mixed Use

District is set forth, summarized or cross-referenced in Sections 810.1 through 812.96 of this Code for each district class.

(a) Use Categories. The uses, functions, or activities, which are permitted in each Chinatown Mixed Use District class include those listed in Table 803.2 below by zoning control category and numbered and cross-referenced to the Code Section containing the definition.

**TABLE 803.2 USE CATEGORIES PERMITTED IN THE
CHINATOWN MIXED USE DISTRICTS**

No.	Zoning Control Categories for Uses	Section Number of Use Definition
803.2.24	Outdoor Activity Area	§ 890.71
803.2.25	Drive-Up Facility	§ 890.30
803.2.26	Walk-Up Facility	§ 890.140
803.2.27	Hours of Operation	§ 890.48
803.2.38a	Residential Conversion, Residential Hotels	§ 890.84
803.2.38b	Residential Demolition, Residential Hotels	§ 890.86
803.2.39a	Residential Conversion, Apartments	§ 890.84
803.2.39b	Residential Demolition, Apartments	§ 890.86
803.2.40a	Other Retail Sales and Services	§ 890.102
803.2.40b	Gift Store—Tourist-Oriented	§ 890.39
803.2.40c	Jewelry	§ 890.51
803.2.41	Bar	§ 890.22
803.2.42	Full-Service Restaurant	§ 890.92
803.2.43	Fast-Food Restaurant—Small	§ 890.90
803.2.44	Fast-Food Restaurant—Large	§ 890.91

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803.2.45	Take-Out Food	§ 890.122
803.2.46	Movie Theater	§ 890.64
803.2.47	Adult Entertainment	§ 890.36
803.2.48	Other Entertainment	§ 890.37
803.2.49	Financial Service	§ 890.110
803.2.50	Limited Financial Service	§ 890.112
803.2.51	Medical Service	§ 890.114
803.2.52	Personal Service	§ 890.116
803.2.53	Professional Service	§ 890.108
803.2.54	Massage Establishment	§ 890.60
803.2.55	Tourist Hotel	§ 890.46
803.2.56	Automobile Parking Lot, Community Commercial	§ 890.9
803.2.57	Automobile Parking Garage, Community Commercial	§ 890.10
803.2.58	Automobile Parking Lot, Public	§ 890.11
803.2.59	Automobile Parking Garage, Public	§ 890.12
803.2.60	Automotive Gas Station	§ 890.14
803.2.61	Automotive Service Station	§ 890.18
803.2.62	Automotive Repair	§ 890.15
803.2.63	Automotive Wash	§ 890.20
803.2.64	Automobile Sale or Rental	§ 890.13
803.2.65	Animal Hospital	§ 890.6
803.2.66	Ambulance Service	§ 890.2
803.2.67	Mortuary	§ 890.62
803.2.68	Trade Shop	§ 890.124

1	803.2.70	Administrative Service	§ 890.106
2	803.2.71	Light Manufacturing, Wholesale Sales or Storage	§ 890.54
3	803.2.72	Fringe Financial Service	§ 890.113
4	803.2.73	Business Services	§ 890.111
5	803.2.80	Hospital or Medical Center	§ 890.44
6	803.2.81	Other Institutions	§ 890.50
7	803.2.82	Public Use	§ 890.80
8	803.2.90	Residential Use	§ 890.88
9	803.2.95	Automobile Parking Lot, Community Residential	§ 890.7
10	803.2.96	Automobile Parking Garage, Community Residential	§ 890.8
11	803.2.97	Tobacco Paraphernalia Establishments	§ 890.123

13 **(b) Use Limitations.** Uses in Chinatown Mixed Use Districts are either permitted,
14 conditional, accessory, temporary, or are not permitted.

15 **(1) Permitted Uses.** All permitted uses in Chinatown Mixed Use Districts shall be
16 conducted within an enclosed building, unless otherwise specifically allowed in this Code.
17 Exceptions from this requirement are: accessory off-street parking and loading; uses which,
18 when located outside of a building, qualify as an outdoor activity area, as defined in Section
19 890.71 of this Code; and uses which by their nature are to be conducted in an open lot or
20 outside a building, as described in Sections 890 through 890.140 of this Code.

21 If there are two or more uses in a structure and none is classified under Section
22 803.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered
23 separately as an independent permitted, conditional, temporary or not permitted use.
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1 **(A) Principal Uses.** Principal uses are permitted as of right in a Chinatown Mixed Use
2 District, when so indicated in Sections 810.1 through 812.96 of this Code for each district
3 class.

4 **(B) Conditional Uses.** Conditional uses are permitted in a Chinatown Mixed Use
5 District when authorized by the Planning Commission; whether a use is conditional in a given
6 district is indicated in Sections 810 through 812. Conditional uses are subject to the provisions
7 set forth in Section 303 of this Code.

8 (i) An establishment which sells beer and wine with motor vehicle fuel is a conditional
9 use, and shall be governed by Section 229.

10 (ii) Any use or feature which lawfully existed and was permitted as a principal or
11 conditional use on the effective date of these controls which is not otherwise nonconforming
12 or noncomplying as defined in Section 180 of this Code, and which use or feature is not
13 permitted under this Article is deemed to be a permitted conditional use subject to the
14 provisions of this Code.

15 (iii) Notwithstanding any other provision of this Article, a change in use or demolition of
16 a movie theater use, as set forth in Section 890.64, shall require conditional use authorization.
17 This Subsection shall not authorize a change in use if the new use or uses are otherwise
18 prohibited.

19 (iv) Notwithstanding any other provision of this Article, a change in use or demolition of
20 a general grocery store use, as set forth in Section 890.102(a) and as further defined in
21 Section 790.102(a), which use exceeds 5,000 gross square feet shall require conditional use
22 authorization. This Subsection shall not authorize a change in use if the new use or uses are
23 otherwise prohibited.

24 (v) Installing a garage in an existing residential building of four or more units requires a
25 mandatory discretionary review hearing by the Planning Commission; Section 311 notice is

1 required for a building of less than four units. In approving installation of the garage, the
2 Planning Commission shall find that: (1) the proposed garage opening/addition of off-street
3 parking will not cause the "removal" or "conversion of residential unit," as those terms are
4 defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-street
5 parking will not substantially decrease the livability of a dwelling unit without increasing the
6 floor area in a commensurate amount; (3) the building has not had two or more "no-fault"
7 evictions, as defined in Section 37.9(a)(7)—(13) of the San Francisco Administrative Code,
8 with each eviction associated with a separate unit(s) within the past ten years, and (4) the
9 proposed garage/addition of off-street parking installation is consistent with the Priority
10 Policies of Section 101.1 of this Code.

11 Prior to the Planning Commission hearing, or prior to issuance of notification under
12 Section 311(c)(2) of this Code, the Planning Department shall require a signed affidavit by the
13 project sponsor attesting to (1), (2), and (3) above, which the Department shall independently
14 verify. The Department shall also have made a determination that the project complies with
15 (4) above.

16 **(C) Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
17 (Accessory Uses for Dwelling Units in R Districts) and 204.5 (Parking and Loading as
18 Accessory Uses) of this Code, a related minor use which is either necessary to the operation
19 or enjoyment of a lawful principal use or conditional use or is appropriate, incidental and
20 subordinate to any such use, shall be permitted in Chinatown Mixed Use Districts as an
21 accessory use when located on the same lot. Any use not qualified as an accessory use shall
22 only be allowed as a principal or conditional use, unless it qualifies as a temporary use under
23 Sections 205 through 205.2 of this Code.

24 No use in a Chinatown Mixed Use District will be considered accessory to a principal
25 use which involves or requires any of the following:

1 (i) The use of more than 1/3 of the total floor area occupied by both the accessory use
2 and the principal use to which it is accessory, combined, except in the case of accessory off-
3 street parking;

4 (ii) Any bar, or restaurant, ~~other entertainment~~, or any other retail establishment which
5 serves liquor for consumption on-site;

6 (iii) Any take-out food use, except for a take-out food use which occupies 100 square
7 feet or less (including the area devoted to food preparation and service and excluding storage
8 and waiting areas) in a retail grocery or specialty food store;

9 (iv) The wholesaling, manufacturing or processing of foods, goods, or commodities on
10 the premises of an establishment which does not also provide for primarily retail sale of such
11 foods, goods or commodities at the same location where such wholesaling, manufacturing or
12 processing takes place.

13 (v) Any other entertainment use, as defined in Section 890.37, except for one that involves a
14 Limited Live Performance Permit as set forth in Police Code Section 1060 et seq.

15 ~~The above~~ No part of this subsection (C) shall ~~not~~ prohibit take-out food activity which
16 operates in conjunction with a fast-food restaurant. A fast-food restaurant, by definition,
17 includes take-out food as an accessory and necessary part of its operation.

18 **(D) Temporary Uses.** Uses not otherwise permitted are permitted in Chinatown
19 Mixed Use Districts to the extent authorized by Sections 205, 205.1 or 205.2 of this Code.

20 **(2) Not Permitted Uses.**

21 (A) Uses which are not listed in this Article are not permitted in a Chinatown Mixed
22 Use District unless determined by the Zoning Administrator to be permitted uses in
23 accordance with Section 307(a) of this Code.

24 (B) No use, even though listed as a permitted use or otherwise allowed, shall be
25 permitted in a Chinatown Mixed Use District which, by reason of its nature or manner of

1 operation, creates conditions that are hazardous, noxious, or offensive through the emission
2 of odor, fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or
3 excessive noise.

4 (C) The establishment of a use that sells alcoholic beverages, other than beer and
5 wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section 229.

6 (D) No off-street parking garage installations or new curb cuts are permitted on the
7 alleyways in the Chinatown Mixed-Use Districts.

8 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
9 **DISTRICTS AND SOUTH OF MARKET MIXED USE DISTRICTS.**

10 (a) **Use Categories.** A use is the specified purpose for which a property or building is
11 used, occupied, maintained, or leased. Whether or not a use is permitted in a specific Eastern
12 Neighborhood Mixed Use District and South of Market Mixed Use District is generally set
13 forth, summarized or cross-referenced in Sections 813.3 through 818 and 840 through 843 of
14 this Code for each district class.

15 (b) **Use Limitations.** Uses in Eastern Neighborhood Mixed Use Districts and South of
16 Market Mixed Use Districts are either permitted, conditional, accessory, temporary or are not
17 permitted.

18 (1) **Permitted Uses.** If there are two or more uses in a structure, any use not
19 classified below under Section 803.3(b)(1)(C) of this Code as accessory will be considered
20 separately as an independent permitted, conditional, temporary or not permitted use.

21 (A) **Principal Uses.** Principal uses are permitted as of right in an Eastern
22 Neighborhood Mixed Use District and South of Market Mixed Use District, when so indicated
23 in Sections 813 through 818 and 840 through 843 of this Code for the district. Additional
24 requirements and conditions may be placed on particular uses as provided pursuant to
25 Section 803.5 through 803.9 and other applicable provisions of this Code.

1 **(B) Conditional Uses.** Conditional uses are permitted in an Eastern Neighborhood
2 Mixed Use District and South of Market Mixed Use District, when authorized by the Planning
3 Commission; whether a use is conditional in a given district is generally indicated in Sections
4 813 through 818 and 840 through 843 of this Code. Conditional uses are subject to the
5 applicable provisions set forth in Sections 178, 179, 263.11, 303, 316.8, and 803.5 through
6 803.9 of this Code.

7 (i) An establishment which sells beer or wine with motor vehicle fuel is a conditional
8 use, and shall be governed by Section 229.

9 (ii) Notwithstanding any other provision of this Article, a change in use or demolition of
10 a movie theater use, as set forth in Section 890.64, shall require conditional use authorization.
11 This Section shall not authorize a change in use if the new use or uses are otherwise
12 prohibited.

13 (iii) Notwithstanding any other provision of this Article, a change in use or demolition of
14 a general grocery store use, as set forth in Section 890.102(a) and as further defined in
15 Section 790.102(a), shall require conditional use authorization. This Subsection shall not
16 authorize a change in use if the new use or uses are otherwise prohibited.

17 **(C) Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
18 (Accessory Uses for Dwelling Units in R and NC Districts), 204.2 (Accessory Uses for Uses
19 Other Than Dwellings in R Districts); 204.4 (Dwelling Units Accessory to Other Uses), and
20 204.5 (Parking and Loading as Accessory Uses) of this Code, an accessory use is a related
21 minor use which is either necessary to the operation or enjoyment of a lawful principal use or
22 conditional use, or is appropriate, incidental and subordinate to any such use, and shall be
23 permitted as an accessory use in an Eastern Neighborhoods Mixed Use District and South of
24 Market Mixed Use District. In order to accommodate a principal use which is carried out by
25 one business in multiple locations within the same general area, such accessory use need not

1 be located in the same structure or lot as its principal use provided that (1) the accessory use
2 is located within 1,000 feet of the principal use; and (2) the multiple locations existed on April
3 6, 1990 (the effective date of this amendment). Accessory uses to non-office uses (as defined
4 in Section 890.70) may occupy space which is non-contiguous or on a different story as the
5 principal use so long as the accessory use is located in the same building as the principal use
6 and complies with all other restrictions applicable to such accessory uses. Any use which
7 does not qualify as an accessory use shall be classified as a principal use.

8 No use will be considered accessory to a principal use which involves or requires any
9 of the following:

10 (i) The use of more than one-third of the total occupied floor area which is occupied by
11 both the accessory use and principal use to which it is accessory, combined, except in the
12 case of accessory off-street parking or loading which shall be subject to the provisions of
13 Sections 151, 156 and 157 of this Code;

14 (ii) A hotel, motel, inn, hostel, ~~nighttime entertainment~~, adult entertainment, massage
15 establishment, large fast food restaurant, or movie theater use in a RED, SPD, RSD, SLR,
16 SLI, SSO, DTR, MUG, MUR, MUO, or UMU District;

17 (iii) Any take-out food use, except for a take-out food use which occupies 100 square
18 feet or less (including the area devoted to food preparation and service and excluding storage
19 and waiting areas) in a restaurant, bar, catering establishment, bakery, retail grocery or
20 specialty food store.

21 (iv) Any sign not conforming to the limitations of Section 607.2(f)(3).

22 (v) Any nighttime entertainment use, as defined in Section 102.17; provided, however, that
23 except for one that involves a Limited Live Performance Permit as set forth in Police Code Section
24 1060 et seq. is allowed in any District except for and which is located in either (1) the South Park
25 District or (2) an Eastern Neighborhoods Mixed Use District or South of Market Mixed Use

1 District where nighttime entertainment is either principally or conditionally permitted (a) an SLI
2 District that is included in the Western SoMa Planning Area Special Use District or (b) an
3 RED, RSD, SLR, MUR, or MUG District.

4 (D) **Temporary Uses.** Temporary uses not otherwise permitted are permitted in
5 Eastern Neighborhoods Mixed Use Districts and South of Market Mixed Use Districts to the
6 extent authorized by Sections 205 through 205.3 of this Code.

7 **SEC. 890.37. ENTERTAINMENT, OTHER.**

8 In the Chinatown Mixed Use Districts, a retail use, other than adult entertainment, as
9 defined in Section 890.36 of this Code, which provides live entertainment, including dramatic
10 and musical performances, and/or ~~operates as a dance hall which~~ provides amplified taped
11 music for dancing on the premises, including but not limited to Places of Entertainment and
12 Limited Live Performance Locales, as those defined in Section 1060 of the Police Code. Other
13 entertainment also includes a bowling alley, billiard parlor, shooting gallery, skating rink and
14 other commercial recreational activity, but it excludes amusement game arcades, as defined
15 in Section 890.4 of this Code and regulated in Section 1036 of the Police Code. For South of
16 Market Districts, see Section 102.17.

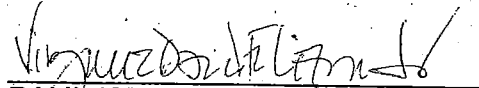
17
18 Section 7. SEVERABILITY. If any section, subsection, subdivision, paragraph,
19 sentence, clause, or phrase of this ordinance or of Article 15.1 of the Police Code, or any part
20 thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of
21 competent jurisdiction, such decision shall not affect the validity or effectiveness of the
22 remaining portions of this ordinance or of Article 15.1, or any part thereof. The Board of
23 Supervisors hereby declares that it would have passed each section, subsection, subdivision,
24 paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more
25

1 sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared
2 unconstitutional or invalid or ineffective.

3
4 Section 8. EFFECTIVE DATE. This ordinance shall become effective 30 days from
5 the date of passage.

6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By:


10 PAUL ZAREFSKY
11 Deputy City Attorney

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.

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