



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 15, 2011 REPORT NO: 11-112

ATTENTION: The Committee of Budget and Finance
Agenda of July 20, 2011

SUBJECT: Police Department Entertainment Permit Exemptions Proposal

REFERENCE:

1. June 28, 2011 City Council meeting
2. June 6, 2011 City Council Meeting
3. May 4, 2011 Budget Committee Meeting
4. February 25, 2009 Budget and Finance Committee Meeting
5. City General Fund User Fee Policy
6. IBA General Fund User Fee Policy

REQUESTED ACTION:

Adopt the amendments to the San Diego Municipal Code (Code) reflecting the adding a new exemption to the list of exemptions for an entertainment permit in Chapter 3, Article 3, Division 15.

STAFF RECOMMENDATION:

Approve the amendments adding the proposed exemption to the list of exemptions for an entertainment permit.

SUMMARY:

The San Diego Police Department [Department] is responsible for issuing permits and regulating a variety of businesses and occupations. These are collectively referred to as *Police Regulated Businesses*. The purpose of having these Police Regulated Businesses is to allow the Department the ability to conduct thorough background checks to ensure compliance with the standards set forth in the Code. It also allows the Department to inspect and regulate these businesses and occupations to ensure there is no criminal activity or violations of the rules governing those businesses and occupations.

In an effort to implement the Mayor's comprehensive fee policy and comply with Chapter Three of the San Diego Municipal Code, the Department recently reviewed its entertainment fees and proposed updates to the rates. During this process the Department met with representatives from the Mayor's office, Council offices, the City Attorney's Office, the IBA, restaurant and entertainment business stakeholders to discuss their concerns about creating a new tier for

“limited” entertainment venues. The Department worked on a proposal that would meet the stakeholder’s requests without compromising the safety and quality of life for the surrounding community members.

This proposal would add an exemption to the list of sixteen exemptions that already exist for an Entertainment Permit in San Diego Municipal Code section 33.1504.

Entertainment Permits

There are approximately 243 Entertainment permits currently in the city of San Diego. In addition to these permits there are several establishments that qualify for one of the 16 exemptions already listed in SDMC 33.1504. These exemptions are for a variety of entertainment and events including; City, County, or State sponsored events; non-profit sponsored activities for youths; entertainment sponsored by City authorized business improvement districts; or wedding or reception type functions when there is no admission charge; although there may be other applicable City regulations that must be complied with beyond entertainment permits. All of these options are available to assist businesses, the general public and the Department in providing safe entertainment for all ages. See Attachment 1 for a full copy of the exemptions listed in SDMC section 33.1504 and the associated definitions.

This proposal would add a 17th exemption that would read as follows:

(q) Any establishment that is a *bona fide restaurant* provided all of the following conditions exist:

- (1) No admission charge
- (2) No required purchase or donation (such as minimum drink order)
- (3) Establishment is closed and all patrons have vacated the premises between 11:00 pm and 8:00 am.
- (4) No customer dancing
- (5) No *occupied residential property* within 100 feet of establishment premises.

The establishments that qualify for this exemption would not be pro-actively regulated or inspected. The Department would respond to complaints or other calls for service as with any business. If an investigation showed that the establishment did not meet the requirement for a claimed exemption, the Department would take appropriate enforcement action, including citing the business for providing entertainment without a permit.

Cost Recovery Discussion

This exemption would not require an application process or any need for police regulation, therefore there would be no fees involved. Because of the suggested requirements it is not anticipated that many establishments currently permitted would qualify for the exemption and thus no longer pay fees. This number is estimated to be between 5 and 10.

FISCAL CONSIDERATIONS:

Since these police regulated businesses are based on a cost recovery model there would be no negative effect on the Departments ability to recover all of the money it takes to regulate the permitted businesses. There will be no cost for implementation other than expenses associated with public notice or mailings.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Entertainment fee structure changes recently went through the Budget and Finance Committee, PS&NS and Full Council. The new entertainment tiers and fee increases were adopted on June 28th, 2011 by at 6-2 vote.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Notices of the changes to the SDMC 33.1504 will be posted at all San Diego Police Department facilities. The proposed changes will also be posted on the City's web site. The Department has met with representatives of business interest groups and will continue to provide updated information to business interest groups as needed.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include restaurant and business owners and community groups from around the city.

Respectfully submitted,



William M. Lansdowne
Chief of Police

ATTACHMENT