

CITY OF SAN LEANDRO
CITY COUNCIL RULES AND COMMUNICATIONS COMMITTEE

June 26, 2012
4:30 - 5:30 p.m.

San Leandro City Hall
835 East 14th Street
San Leandro, California
(Sister Cities Gallery)

AGENDA

1. Update on Committee and Commission Digital Audio Recording Pilot
2. Discussion Regarding Website Changes
3. Continued Discussion Regarding Special Event Permits and Processes
4. Discussion Regarding Daytime and Nighttime Curfew Ordinances
5. Public Comments
6. Committee Member Comments
7. Adjourn

Committee Members: Mayor Stephen Cassidy
Councilmember Jim Prola
Councilmember Diana Souza

CITY OF SAN LEANDRO

STAFF REPORT

DATE: May 14, 2012

TO: Chris Zapata, City Manager

FROM: Lianne Marshall, Assistant City Manager

BY: Rayan Fowler, Information Services Manager
Marian Handa, City Clerk

SUBJECT PROJECT/PROJECT DESCRIPTION:

STATUS REPORT ON DIGITALLY RECORDING COUNCIL COMMITTEE MEETINGS
FOR INCLUSION ON THE CITY'S WEBSITE

SUMMARY AND RECOMMENDATION

It is recommended the Rules and Communications Committee forward to the full City Council:

- a recommendation to digitally record all City Council Committee meetings for inclusion on the City's website by holding all City Council meetings in the Council Chambers; and
- a recommendation to move to action-type Highlights of Council Committee meetings.

BACKGROUND

In June 2011 the Rules and Communications Committee expressed interest in digitally recording all public meetings for inclusion on the City's website. Currently there is a maximum of 192 Committee and Board and Commission meetings held per year. In September 2011, the City Council approved a pilot program to digitally record the Rules and Communications Committee meetings in the Sister Cities Gallery, and the Planning Commission and Board of Zoning Adjustments meetings in the City Council Chambers. The program was to be reviewed by the Rules and Communications Committee after six months to assess the costs, usage and benefits of the program.

At the April 24, 2012 City Council Rules and Communications Committee meeting, staff reported on the usage over the last nine months and the cost and staff time involved to expand the digital audio recording pilot program beyond its current scope.

Digital recording equipment was purchased in the amount of \$3,520.00 utilizing PEG (Public Education and Government) funds. During the pilot program, staff digitally recorded three Rules and Communications Committee meetings, three Planning Commission meetings, three Board of Zoning Adjustments meetings and, starting March 2012, staff began recording the Finance Committee meetings. Attached is the statistics report for all digitally recorded meetings. The statistics reports represent the number of times a user (both public and staff) listened to all

digitally recorded meetings available through the City's website and the top 10 accessed meetings.

During the pilot program, staff reviewed the time it takes to set up the necessary equipment to digitally record a meeting outside of the Council Chambers. Public Works staff's experience has confirmed that it takes an hour to properly set up and take down the digital recording equipment. At the April 24, 2012 Rules and Communications Committee meeting, staff requested annual funding up to \$5,000 for a part-time Maintenance Aide position to support the expansion of digitally-recorded Council Committee and Commission meetings. Committee members expressed interest in expanding the program, but wanted less costly, less labor-intensive options.

To achieve the Committee's interest in recording additional Council Committee meetings, while limiting staff time and cost, staff recommends that all Council Committee meetings to be recorded be held in the Council Chambers. There are a number of benefits in utilizing the equipment that is installed in the Council Chambers. These include:

- Meetings will be available to the public live
- Each agenda item will be tagged in the recordings so that users will be able to jump to a specific item without having to listen to the entire meeting
- Meeting Highlights can be abbreviated, thereby allowing a faster turnaround of Committee Highlights and recommendations and reduced staff time in preparation of the highlights.

For meetings held outside the Council Chambers, such as Commission meetings, the portable digital recorder purchased in January 2011 can be utilized. The quality of the recordings will not be as clear as meetings recorded in the Council Chambers. For special meetings, such as the Council Retreat, Facilities or Information Technology staff will set up the recording equipment with microphones to insure a quality recording.

Staff further recommends moving to action-type Highlights of Committee meetings. This change is consistent with the conversion to action minutes for City Council meetings after the implementation of digital recording. The Rules and Communications Committee previously requested that staff look into streamlining the reporting out of Council Committee Highlights and recommendations. Moving to action minutes for Council Committee meetings would result in more timely submission of Committee Highlights and recommendations for the City Council agenda.

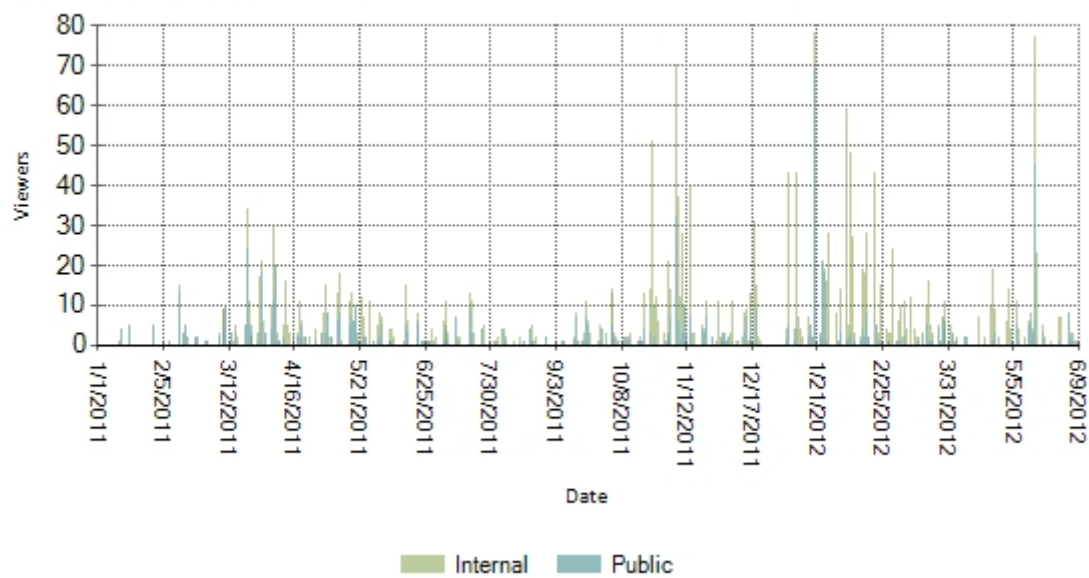
CONCLUSION

It is recommended the Rules and Communications Committee forward to the full City Council a recommendation to move all City Council Committee meetings to the Council Chambers in order to digitally-record Council Committee Meetings for inclusion on the City's Website, and to move to action-type Highlights of Committee meetings.

Total Viewers Report

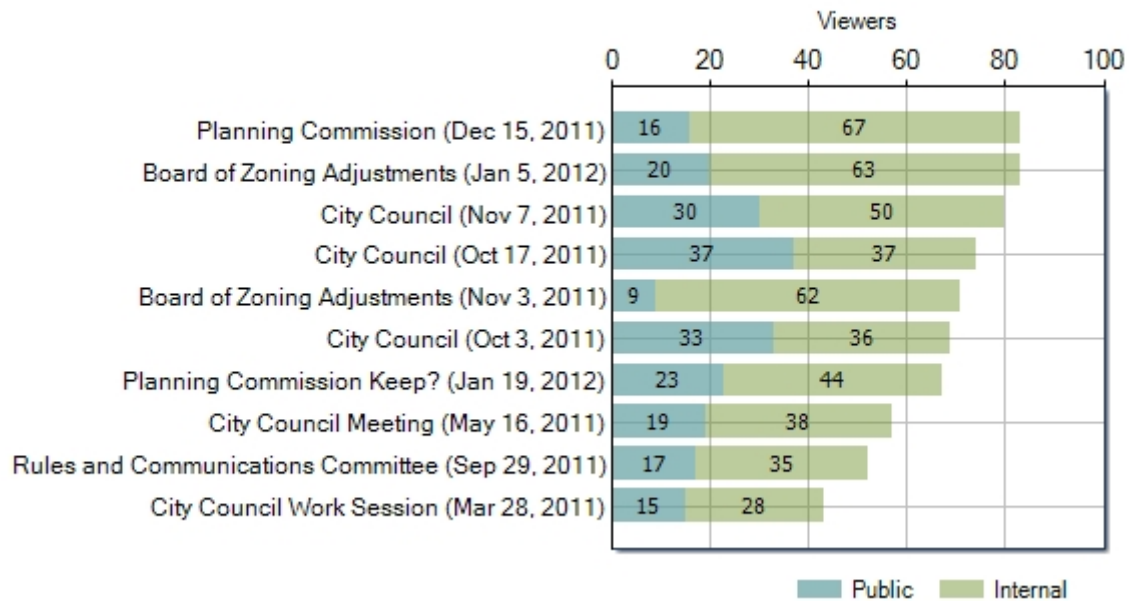
View all clips from 1/1/2011 to 6/8/2012 viewed by all viewers.

Total results from date range: 2250



Top Ten Report

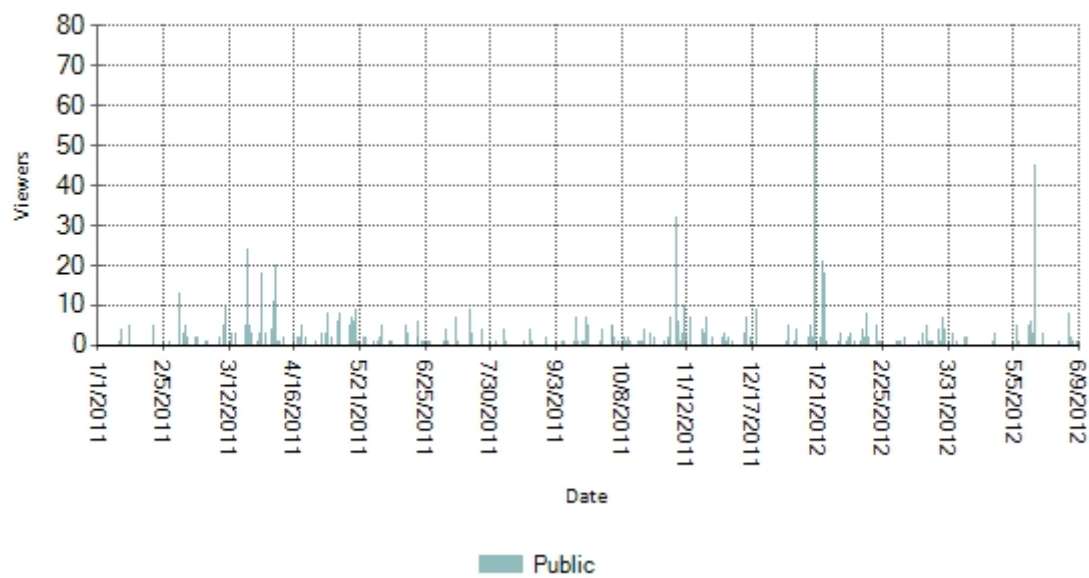
Top 10 archives from 1/1/2011 to 6/8/2012 viewed by all viewers



Total Viewers Report

View all clips from 1/1/2011 to 6/8/2012 viewed by public viewers only.

Total results from date range: 796



CITY OF SAN LEANDRO

MEMORANDUM

Date: June 26, 2012
To: City Council Rules and Communications Committee
From: Rayan Fowler, Information Services Manager and
Jeff Kay, Administrative Analyst
Subject: Update on Partial Redesign of the City's Homepage

Summary

Since the launch of the current City website in 2010, staff has been continually monitoring the performance of the site and feedback from the community. Overwhelmingly, the response to the site has been positive although a handful of opportunities for improvement have been identified. Staff also convened an informal working group in the fall of 2011 to solicit additional feedback from community members with interest and/or expertise in web design issues. The group was formed as a sub-group of the City's Branding and Marketing Working Group.

The City presently has approximately \$10,000 remaining on its 2011-12 contract with Civica, the company that designed and maintains the website. This memorandum details a proposal to use that existing funding allocation on a partial redesign of the homepage to make several improvements and add new features. The project is expected to take approximately 90 days from notice to proceed, depending on vendor availability.

Discussion

Planned changes to the homepage are as follows:

1. Redesign main page banner

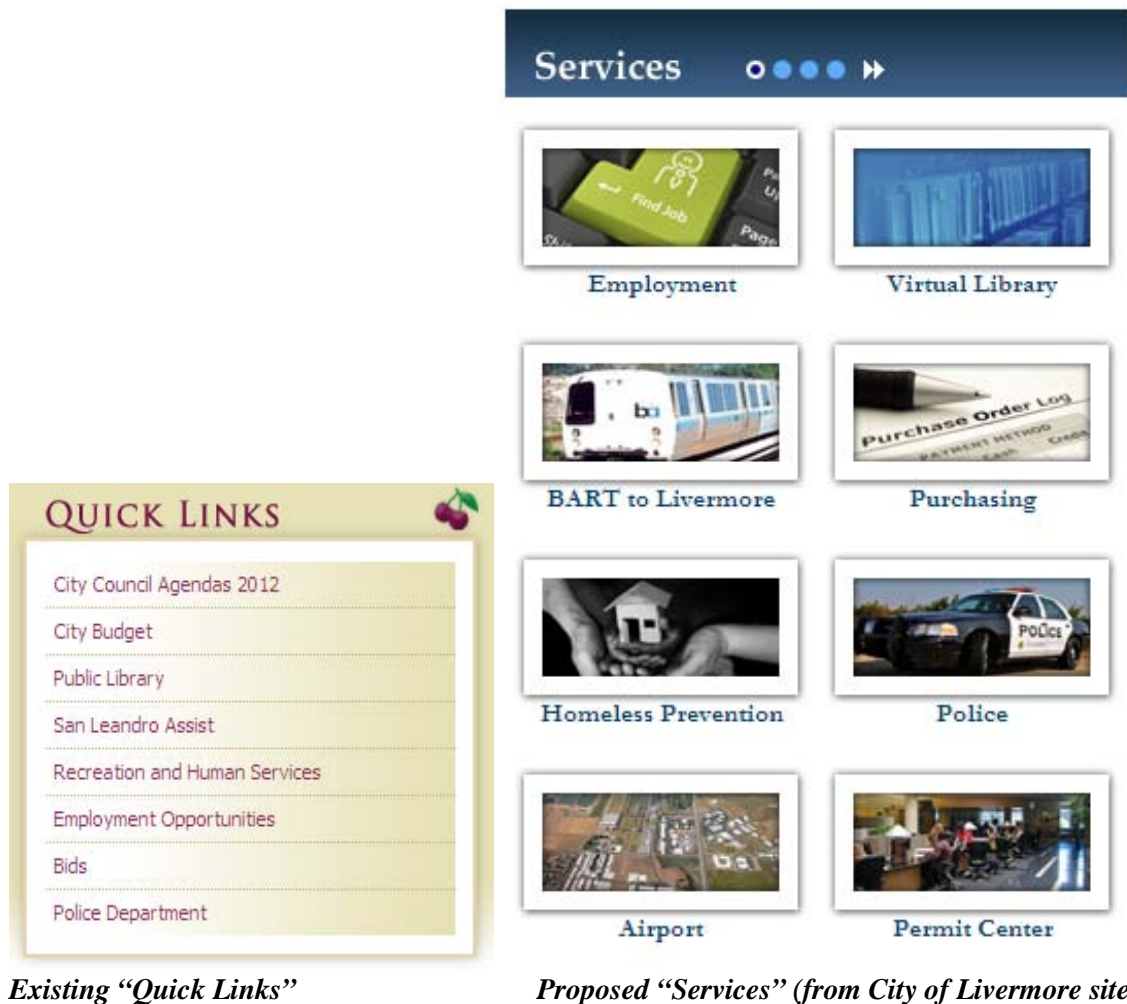
The main banner at the top of the homepage will be redesigned to provide more space for the photos and less for the City name and logo. Based on feedback received, too much of the top of page is currently "dead space." The photo slideshow will also be changed from Adobe Flash technology to HTML5. Flash is not supported by iPhones and iPads so the current slideshow is not viewable on those devices.



Existing Banner

2. Change the “Quick Links” section to “Services”

This section allows one-click access to popular or featured areas of the site. In general, the list of Quick Links is generated dynamically based on the most popular pages, although staff has the ability to override this process and add links to particular pages when appropriate. The present layout is text only and limited to eight links. The proposed change would add a graphical component to this section and the option of increasing the number of links. The Services links would be determined by staff and not generated dynamically.



3. Improved Calendar section

Based on feedback from the working group, the calendar layout will be adjusted so that it is easier to tell if there are planned events on a given day. Days with events will be given a different graphical treatment, such as underlined text or a different background color. Presently, visitors need to click on a date to find out if there are events.

4. Add Temperature

To highlight San Leandro’s favorable climate, the current temperature will be added to the top of the page between the date and the search field.

5. Add Language Translations

The ability to translate the site into numerous foreign languages will be added via a link to the Google translation service at the bottom of the page.

6. Cleanup Section Headings

To create more space for content, the “Information for” and “Calendar” headings will be deleted because these sections are deemed to be self-explanatory. Additionally, “City News” will be renamed “Latest News” and the header will be moved down into the content block, clearing vertical space.

Section headings will also be changed from all caps to title case for improved readability.



Existing Section Headings

7. Delete Cherry Icons

The community working group expressed the opinion that the cherry icons add little value to the page and create clutter. Deleting them will help to create a cleaner look and feel.

City of San Leandro Entertainment Permit Ordinance
(San Leandro Municipal Code Chapter X-XXX)

Definitions.

For the purposes of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended:

(A) Entertainment shall mean any of the following, except when conducted in a private residence:

(1) Any act, play, review, pantomime, scene, or group of persons that involves a dance act, or a song and dance act, performed by one or more persons, whether or not such person or persons are compensated for such performance; or

(2) Any entertainment event that includes the playing of amplified, or acoustic music by a band, or recorded music presented by a live disc jockey, group of disk jockeys, or combination of live band and disk jockeys; or

(3) Any fashion or style show, except:

(a) when the same is conducted by a person as a part of a commercial business which primarily involves the sale or manufacture of clothing or wearing apparel.

(4) "Entertainment" shall not include:

(a) any adult-oriented business defined in Chapter 4-24 of this Code; or

(b) the activities in subsection (1), (2), and (3) when the same is conducted by a Nonprofit Club or Organization as defined in subsection (F).

(B) Place of Entertainment shall mean every premises to which patrons or members are admitted which serves food, beverages, or food and beverages, including but not limited to alcoholic beverages, for consumption on the premises and wherein Entertainment as defined in Subsection (A) is furnished or occurs upon the premises.

(C) Limited Live Performance Permit shall mean a permit allowing a Limited Live Performance Locale to present Live Performances.

(D) Limited Live Performance Locale shall mean a locale with all the following features:

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

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

(3) Live Performances presented at the locale conclude by 10 p.m., except as otherwise provided by the City.

(4) The locale is not a private residence.

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

(E) Live Performance shall mean any act, play, review, pantomime, scene, song, dance act, song and dance act, poetry recitation, fashion or style show, or the playing or use of any instrument or equipment capable of producing or used to produce musical or percussion sounds, including but not limited to reed, brass, percussion, or string-like instruments, CD players, record players, mixers, or computer software or hardware. Live performance shall not include such activities when conducted by a Nonprofit Club or Organization as defined in subsection (F).

(F) Nonprofit Club or Organization shall mean 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.

(G) Promoter shall mean any person who both holds an entertainment event and receives compensation in connection with the event, except:

(1) A print, broadcast, or internet medium that is paid solely for page space or broadcast time to advertise an event, but exercises no other responsibilities in connection with the event;

(2) A ticket seller who sells admission tickets to an event from its own place of business, in advance of the event and not at the site of the event but exercises no other responsibilities in connection with the event;

(3) An entertainer or performer who is not compensated, or who is compensated solely for his or her performance or presentation of entertainment at the event.

(4) An agent of an entertainer or performer that engages in Entertainment as defined above in section (A);

(5) An employee of a Promoter; or

(6) An agent, official, or employee of the City acting in the course of his or her position as an agent, official, or employee.

(H) Notice shall mean written notice, given by personal service upon the addressee, or given by United States Postal Service, postage prepaid, addressed to the person to be notified at his last known address. Service of such notice shall be effective upon the completion of personal service, or upon the placing of the same in the custody of the United States Postal Service.

(I) Place of Entertainment shall mean a place open to members of the public, with or without charge, in which entertainment is offered or performed.

(J) Permit Authority shall mean the Chief of Police or such other person designated by the Chief of Police to exercise the duties of permit authority pursuant to this chapter.

Permit Required.

No person shall conduct or allow the conduct of any act of Entertainment or Live Performance in any commercial establishment as the owner or operator of such place, or the Promoter of such Entertainment or Live Performance, without first obtaining a Place of Entertainment

Permit or Limited Live Performance Permit therefor, in the manner hereinafter set forth in this chapter. No permit is required for any act of Entertainment or Live Performance that occurs within a private residence, whether such residence is within a single family residence, multi-family development, condominium, mixed-use or apartment complex.

Application.

Any person required to obtain a permit pursuant to this chapter, shall file a written application therefor, with the Permit Authority. Written application forms for such permits shall be prepared by the Permit Authority, which shall require thereon such information as the Permit Authority deems necessary to carry out the purposes of this chapter.

Permit Fees.

A filing and processing fee, in the sum established by resolution of the City Council, shall be paid contemporaneously with the filing of a permit application.

Application Investigation.

The Permit Authority, upon receipt of a written application for a permit, shall conduct an appropriate investigation to determine whether said permit should be issued in accordance with the provisions of this chapter as hereinafter set forth. The Permit Authority shall consider any relevant factual material relating to such application. The Permit Authority shall issue a Place of Entertainment Permit or Limited Live Performance Permit required by this chapter only if the Permit Authority finds that:

- (a) a written application form therefor has been filed; and
- (b) the required filing and processing fee therefor has been paid; and
- (c) as a result of the Permit Authority's investigation that all applicable provisions of this chapter with regard to such permit application have, or will be, met.

Issuance or Denial.

(A) Issuance. The Permit Authority shall issue a permit, based upon the Permit Authority's investigation, if the Permit Authority finds:

(1) That the operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including but not limited to the city's building, zoning and health regulations, and the orders of the Permit Authority, including any relating to security;

(2) that the applicant or any other person who will be directly engaged in the management or operation of the place where the Entertainment or Live Performance occurs, other than one who participates in an act of Entertainment or Live Performance:

(a) has not been convicted in a court of competent jurisdiction, by final judgment, of:

1. an offense involving the presentation, exhibition or performance of an obscene production, motion picture, play or act; nor

2. an offense involving lewd conduct; nor
3. an offense involving the use of force and violence upon the person of another; nor
4. an offense involving misconduct with children;

(b) has not allowed or permitted acts of sexual misconduct to be committed in prior business operations;

(c) has not been issued any other permit or entitlement in the past that was suspended or revoked by the City.

(3) that the applicant has not knowingly made any false, misleading or fraudulent statement of facts in the permit application, or any other document required by the City in conjunction therewith.

(B) Conditions. Permits may be issued conditionally, in order to ensure compliance with the provisions hereof.

(C) Denial. If the Permit Authority finds any of the facts, as set forth in subsection (A) hereof, are present, the Permit Authority shall decline to issue the permit as requested.

Notice of decision.

Within thirty days from receipt of the permit application by the Permit Authority, Permit Authority shall give written notice of its decision to the applicant and to any other person requesting such notice. In the event the Permit Authority determines the application is incomplete, Permit Authority shall notify applicant accordingly within the time period specified in this provision.

Appeal.

Any person aggrieved by the action of the Permit Authority may appeal such decision in writing to the City Manager, whose decision shall be final.

Suspension.

(A) Grounds. The Permit Authority shall suspend any permit issued hereunder, if the Permit Authority finds that:

(1) the operation, as conducted by the applicant, does not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;

(2) the applicant or any other person who is directly engaged in the management or operation of the Place of Entertainment or Limited Live Performance Locale, other than one who participates in an act of Entertainment or Live Performance, has:

(a) been convicted in a court of competent jurisdiction, by final judgment, of:

1. an offense involving the presentation, exhibition or performance of an obscene production, motion picture or play; or
2. an offense involving lewd conduct; or
3. an offense involving the use of force and violence upon the person of another; or
4. an offense involving misconduct with children;

(b) allowed or permitted acts of sexual misconduct to be committed at the place of entertainment;

(3) the applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application, or any other document required in conjunction therewith.

(B) Right of Appeal. The determination of the Permit Authority with regard to matters of suspension shall be appealable to the City Manager, whose decision shall be final.

(C) Order of Suspension. The Permit Authority, in the case of such suspension, shall serve the permittee with a written order of suspension, which shall state the reasons for such suspension. Said order shall be effective immediately if personally served, or forty-eight hours after the same has been deposited, in the course of transmission, in the United States Postal Service. Immediately upon such an order becoming effective, the permittee shall cease all operations under such permit.

The order of suspension shall be deemed a revocation of the permit to which it relates unless the permittee, within fifteen days after personal service of such order, or fifteen days after said order is deposited, in the course of transmission, in the United States Postal Service, files an appeal from said order. Where an appeal is taken, the order shall be stayed pending a determination thereon by the City Manager, which shall act upon the same within ten days from the date of the appeal. Such determination shall be final and conclusive.

Posting or exhibiting.

Permits issued pursuant to this chapter shall be posted on the premises where the business or enterprise for which the permit is issued is conducted, and shall remain so posted during the period the permit shall be in force.

Duration.

Permits issued pursuant to this chapter shall be valid until revoked or abandoned.

Transferability.

No permit shall be transferable except with the written consent of the Permit Authority. An application for such a transfer shall be in writing and shall be accompanied by a filing and processing fee established by resolution of the City Council, the same to be filed with the Permit

Authority. The written application for such transfer shall contain the same information as required herein for an initial application for such a permit.

1812249.1

DRAFT ORDINANCE REPEALING, RESERVING AND AMENDING THE
DAYTIME AND NIGHT TIME CURFEW ORDINANCE

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2012 -__

AN ORDINANCE REPEALING AND RESERVING SECTIONS 4-1-810 AND 4-1-815 OF TITLE 4, CHAPTER 4-1 OF THE SAN LEANDRO MUNICIPAL CODE AND AMENDING ARTICLE 3 OF TITLE 4, CHAPTER 4-1 OF THE SAN LEANDRO MUNICIPAL CODE RELATING TO YOUTH CURFEWS

WHEREAS, the City Council of the City of San Leandro (hereafter, the "City Council") passed and adopted Ordinance No. 1982-021 on April 19, 1982, amending Section 4-1-815 of Title 4, Chapter 4-1 of the San Leandro Municipal Code to provide for a youth curfew between the hours of 10:00 p.m. and 5:00 a.m. for unemancipated minors (hereafter, the "Nighttime Curfew Ordinance"); and

WHEREAS, the City Council passed and adopted Ordinance No. 2007-017 on July 30, 2007, adding Section 4-1-810 of Title 4, Chapter 4-1 of the San Leandro Municipal Code to provide for a youth curfew between the hours of 8:00 a.m. and 3:00 p.m. for all minors subject to compulsory education or compulsory continuation education (hereafter, the "Daytime Curfew Ordinance"); and

WHEREAS, on February 4, 2010, the Fourth District Court of Appeal for the State of California ruled that a youth curfew ordinance passed and adopted by the City Council of the City of San Diego was partially invalid under the equal protection clauses of the Constitution of the United States and the Constitution of the State of California for its failure to exempt from penalty certain forms of speech and association that are protected under the First Amendment of the Constitution of the United States (hereafter, the "Court Decision"); and

WHEREAS, rulings by the Fourth District Court of Appeal for the State of California apply with equal effect throughout the State of California; and

WHEREAS, notwithstanding the legal effects of the Court Decision, the passage and adoption of a youth curfew ordinance remains well within the legislative prerogative of the City Council as a lawful exercise of the police power of the City of San Leandro under the Constitution of the State of California; and

WHEREAS, no court has ruled that the Nighttime Curfew Ordinance or the Daytime Curfew Ordinance are an unlawful exercise of a city's police power; and

WHEREAS, the City Council shall ensure that the Nighttime Curfew Ordinance and Daytime Curfew Ordinance continue to observe compliance with all applicable state and federal laws that govern youth curfew ordinances, as established by the Court Decision.

NOW, THEREFORE, The City Council of the City of San Leandro does ORDAIN as follows:

Section 1. PURPOSE. The recitals above are true and correct and incorporated herein by this reference.

Section 2. REPEAL OF CODE. Section 4-1-810 and Section 4-1-815 of Chapter 4.1, Title 4 of the San Leandro Municipal Code are hereby repealed.

Section 3. RESERVATION OF CODE. Section 4-1-810 and Section 4-1-815 of Chapter 4.1, Title 4 of the San Leandro Municipal Code are hereby reserved.

Section 4. AMENDMENT OF CODE. Article 3 of Chapter 4.1, Title 4 of the San Leandro Municipal Code is hereby amended as follows:

ARTICLE 3. ~~RESERVED~~-YOUTH CURFEWS

4-1-300 DEFINITIONS.

As used in this Article, the following words and phrases shall mean:

(a) **“Emergency”** shall mean any unforeseen combination of circumstances or the resulting state thereof that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, explosion, or any situation that requires immediate action to prevent loss of life or serious bodily injury, including but not limited to any bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(b) **“Establishment”** shall mean any privately owned place of business operated for profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(c) **“Guardian”** shall mean: (1) a person who, under court order, is the guardian of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

(d) **“Loiter”** shall mean to delay an activity, errand or journey with aimless idle stops and purposeless distractions, to remain in place in an idle manner, or to hang around aimlessly or without real necessity.

(e) **“Minor”** means any person under eighteen (18) years of age.

(f) **“Parent”** shall mean a person who is a natural parent, adoptive parent or step-parent of a minor.

(g) **“Public place”** shall mean any place or ground to which the public or a substantial group of the public has access and includes, but is not limited to, the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(h) **“Responsible adult”** shall mean a person at least eighteen (18) years of age, authorized by a parent or guardian to have the care and custody of a minor.

4-1-305 DAYTIME CURFEW.

(a) It is unlawful for any minor who is subject to compulsory education or compulsory continuation education to loiter, wander, stroll, or play in or upon any public street, highway, road, alley, park, playground, or other public place, public building, place of amusement, eating establishment or vacant lot during the hours of 8:00 a.m. to 3:00 p.m of that same day, on days when the minor's school is in session.

(b) There is a rebuttable presumption that the minor's school is in session on days when the school facilities of the San Leandro Unified School District are held open for the compulsory education or compulsory continuation education of all minors pursuant to a school calendar passed and adopted by the Board of Education of the San Leandro Unified School District or its designate.

(c) It is a defense to Section 4-1-305 (a) that the minor was:

(1) Accompanied by his or her parent, guardian or other responsible adult having care or custody of the minor; or

(2) On an emergency errand directed by his or her parent, guardian or other responsible adult having care or custody of the minor; or

(3) Going or coming directly to or from his or her place of gainful employment or to or from a health care appointment; or

(4) Permitted to leave the school for lunch or a school-related activity and has in his or her possession a valid, school-issued, off-campus permit; or

(5) Going or coming directly to or from a school-approved or school-related business, trade, profession, occupation or program in which he or she is lawfully engaged, such as a work study or work experience program, subject to verification by a proper school authority; or

(6) Exempt by federal or state law from compulsory education or compulsory continuation education; or

(7) Authorized to be absent from his or her school under the provisions of Section 48205 of the California Education Code, applicable federal or state law or a school absence policy permitted under the foregoing laws; or

(8) Going directly to or from an event or activity that is directly related to any medical condition of a parent or other responsible adult having the care or custody of the minor; or

(9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, or going to or returning home therefrom, without any detour or stop; or

(10) Traveling from an activity listed in this section to another activity listed in this section, without any detour or stop.

4-1-310 NIGHTTIME CURFEW.

(a) It is unlawful for any unemancipated minor to loiter, wander, stroll or play in or upon any public street, highway, road, alley, park, playground, or other public place, public building, place of amusement, eating establishment or vacant lot during the hours of 10:00 p.m. to 6:00 a.m. of the following day.

(b) It is unlawful for any parent or guardian of an unemancipated minor to knowingly permit or, by insufficient control, to allow the minor to loiter in or upon any public street, highway, road, alley, park, playground, or other public place, public building, place of amusement, eating establishment or vacant lot during the hours of 10:00 p.m. to 6:00 a.m. of the following day.

(c) It is a defense to Section 4-1-310 (a-b) that the minor was:

(1) Accompanied by his or her parent, guardian or other responsible adult having care or custody of the minor; or

(2) On an errand at the direction of his or her parent, guardian or other responsible adult having care or custody of the minor, without detour or delay; or

(3) In a motor vehicle involved in intrastate or interstate travel, and such driving does not constitute loitering or wandering; or

(4) Engaged in employment, or going to or returning home from employment, without detour or delay; or

(5) Involved in an emergency; or

(6) On the sidewalk adjacent to his or her residence, provided that the minor is not otherwise violating the law; or

(7) Attending an official school, religious, or other recreational activity supervised by a responsible adult and sponsored by the City of San Leandro, a civic organization or other similar entity that takes responsibility for the safety of the minor; or going to or returning home from an official school, religious or other recreational activity supervised by a responsible adult and sponsored by the City of San Leandro, a civic organization or other similar entity that takes responsibility for the safety of the minor, without detour or delay; or

(8) Emancipated pursuant to law; or

(9) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, or going to or returning home therefrom, without any detour or stop; or

(10) Traveling from an activity listed in this section to another activity listed in this section, without any detour or stop.

4-1-315 ENFORCEMENT OF ARTICLE.

(a) Prior to any enforcement action under this Article, a police officer shall ask the apparent offender to provide:

(1) A form of government-issued or school-issued identification belonging to him or her, or a statement of his or her age; and

(2) A reason for him or her to be in or upon the public street, highway, road, alley, park, playground, or other public place, public building, place of amusement, eating establishment or vacant lot during the curfew hours established under this Article.

(b) The police officer shall not detain, arrest or issue a citation to the apparent offender unless the police officer reasonably believes:

(1) That the apparent offender has violated the provisions of this Article; and

(2) That, based on the apparent offender's responses or other circumstances, no rebuttable presumptions or defenses under the provisions of this Article appear to be present or applicable.

4-1-320 VIOLATIONS.

(a) Each and every violation of this Article shall constitute a separate offense in accordance with Section 1-12-140.

(b) Minors who are found to have violated the provisions of this Article shall be dealt with in accordance with juvenile court law and procedure.

(c) Any person found to have violated the provisions of this section shall be guilty of an infraction.

(1) The fine for this violation shall be \$50.00 for the first offense, \$100.00 for the second offense within twelve or fewer consecutive months of the first offense, and \$200.00 for the third and additional offenses within twelve or fewer consecutive months from the second offense.

(2) In lieu of paying the \$50.00 fine, first-time offenders may be assigned to a diversion program which may include five (5) hours of community service with a civic organization located within the City of San Leandro. Upon completion of community service, the minor shall obtain written proof of completion from the civic organization, which shall be subject to verification by the Chief of Police or his or her designee. To meet the requirements of the diversion program, the minors background shall be reviewed by the Chief of Police to determine eligibility. All second, third, and additional offenders within twelve or fewer consecutive months from the first offense shall be assigned to the diversion program described herein without exception.

(3) In the discretion of the Chief of Police, parents of minors who are guilty of a third or additional offenses under subsection (c)(2) above may be required to attend a parenting class, approved and or provided by the Chief of Police, before any fines or offenses are dismissed in the Chief's discretion.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

Section 6. Effective Date of Ordinance. This Ordinance shall take effect thirty (30) days after adoption. The City Clerk of the City of San Leandro shall cause this Ordinance to be published in accordance with Section 36933 of the Government Code of the State of California.

Introduced by Council Member _____ on this [day]th day of June, 2012, and passed to print by the following called vote:

Members of the Council:

Ayes:

Noes:

Absent:

Attest: _____
Marian Handa, City Clerk