

1 [Transportation Code - Fiscal Feasibility Determination for Major Events]

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3 **Ordinance amending the Transportation Code to prohibit the Interdepartmental Staff**  
4 **Committee on Traffic and Transportation from reviewing or approving a major event**  
5 **lasting five or more consecutive days and fully occupying two or more blocks, unless**  
6 **the Board of Supervisors has first determined that the event is fiscally feasible and**  
7 **responsible.**

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

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

16 Section 1. The Transportation Code is hereby amended by revising Section 6.2, to  
17 read as follows:

18 **SEC. 6.2. REQUEST FOR PERMISSION FOR TEMPORARY USE OR OCCUPANCY**  
19 **OF PUBLIC STREETS; PROCEDURE.**

20 (a) Any person seeking permission for the temporary use or occupancy of a public  
21 street within the City shall file an application with, and on a form provided by, the SFMTA, and  
22 shall pay the filing fee established by the SFMTA Board of Directors.

23 (b) An application shall ~~be not be accepted or approved for a proposed temporary use or~~  
24 ~~occupancy scheduled to occur fewer than 30 calendar days after the application is~~ submitted to the  
25 Municipal Transportation Agency at least 120 calendar days before any proposed major event

1 lasting five or more consecutive days and fully occupying two or more blocks, and at least 30 calendar  
2 days before any other proposed temporary use or occupancy, except as follows in this paragraph:

3 (1) An application for a proposed temporary use or occupancy scheduled to occur  
4 fewer than 30 calendar days after the application date may be filed for emergency  
5 consideration. The Director of Transportation shall consider the request if the applicant has  
6 demonstrated that an extraordinary emergency exists that requires the closing of a street, and  
7 provided that there is adequate time available for the Municipal Transportation Agency to  
8 conduct the required public hearing and post notice of the scheduled hearing at least 72 hours  
9 in advance of the hearing.

10 (2) The ~~Mayor's Film and Video Arts Commission (the "Film Commission, or other~~  
11 ~~successor commission or division of the Mayor's office,~~ may file with the Director of Transportation  
12 an application on behalf of a film or other video production company (which company shall be  
13 responsible for the payment of all applicable fees) for a proposed temporary use or occupancy  
14 scheduled to occur fewer than 30 calendar days after the application date, provided that there  
15 is adequate time available for the Director of Transportation to conduct the required public  
16 hearing and post notice of the scheduled hearing at least 72 hours in advance of the hearing.  
17 The Film Commission (or the film company on whose behalf the application was made) shall  
18 (A) notify residents, merchants, and other occupants of the public street(s) to be closed of the  
19 dates proposed for street closure, and (B) notify any and all affected City departments,  
20 including the Police Department and the Department of Public Works.

21 (c) The completed application shall include, when applicable, maps and/or drawings  
22 which identify the streets that would be affected, and describe the scope and design of the  
23 event, including illustrations of the location of staging, food booths, seating, and a diagram of  
24 an emergency access plan. In addition, the Director of Transportation may request such  
25 additional information as is necessary to allow ISCOTT to make an informed evaluation of the

1 proposed temporary use or street occupancy. In the case of "major events," as defined in  
2 Section 6.3, applicants shall submit an emergency medical services plan. In the case of "major  
3 events," as defined in Section 6.3, lasting five or more consecutive days and fully occupying two or  
4 more blocks, the applicant shall, in accordance with subsection (d), seek and procure a Board of  
5 Supervisors determination that the applicant's plan for undertaking and implementing the major event  
6 is fiscally feasible and responsible. An application for a major event lasting five or more consecutive  
7 days and fully occupying two or more blocks shall not be deemed complete until the Board of  
8 Supervisors has issued a determination of fiscal feasibility and responsibility.

9 (d) The following procedures shall apply to requests for a Board of Supervisors determination  
10 of fiscal feasibility and responsibility:

11 (1) The applicant may request that the Mayor, an individual Supervisor, or a department  
12 sponsor a resolution for consideration and adoption by the Board of Supervisors finding the plan to  
13 undertake and implement the major event fiscally feasible and responsible. The applicant shall assist  
14 the sponsor by providing information about the proposed major event, including at a minimum a  
15 general description of the event, its general purpose, and a fiscal plan describing the estimated cost  
16 and all known and potential available funding sources for the event, for submission to the Board in  
17 connection with the proposed resolution. If no other Department or City official is willing to sponsor  
18 the resolution before the Board, the Supervisor representing the district where the proposed event will  
19 occur shall introduce the proposed resolution to the Board on the applicant's behalf.

20 (2) The Board of Supervisors, in accordance with its rules of order, shall refer the  
21 proposed resolution and accompanying information to the Budget and Finance Committee, or  
22 successor committee responsible for review of fiscal measures such as appropriation ordinances, bond  
23 issues, taxes, fees, and other revenue measures. The Board may forego the committee process if a  
24 resolution concerns a recurring event that the Board determined was fiscally feasible and responsible  
25 in the previous year. In considering whether a proposed event is fiscally feasible and responsible, the

1 Board shall consider the fiscal impact of the event on the City and its residents and businesses, using  
2 the following criteria: (A) the direct and indirect costs to the City; (B) the direct and indirect costs to  
3 local residents and local businesses; (C) the direct and indirect benefits to the City; and (D) the direct  
4 and indirect benefits to local residents and local businesses. The Board may also consider whether it is  
5 possible to recover the costs of the event, as well as any other criteria that may be useful in evaluating  
6 an event's fiscal feasibility.

7 (3) The Board shall act as expeditiously as possible, and shall hold a public hearing  
8 regarding the fiscal feasibility of a proposed event within 90 days following introduction of the  
9 resolution at the Board of Supervisors. The Board may continue its consideration of the proposal in  
10 order to receive more information from the Budget & Legislative Analyst and/or the Controller or to  
11 further consider the proposal. Failure of the Board to hold a public hearing within such 90-day period  
12 shall not be deemed to constitute a determination that the event is fiscally feasible and responsible.  
13 Upon completing its review, the Board shall determine whether the event is fiscally feasible and  
14 responsible.

15 (4) ISCOTT may undertake review of an application for a major event lasting five or  
16 more days and fully occupying two or more blocks only after the Board of Supervisors has determined  
17 that the event is fiscally feasible and responsible. If the Board of Supervisors determines that the event  
18 is not fiscally feasible, ISCOTT shall not undertake review of the application.

19 (5) The applicant may revise or modify the application for a major event and may submit  
20 the proposed resolution and accompanying information again to the Board of Supervisors for  
21 consideration pursuant to this Section 6.2 no earlier than three months following a determination by  
22 the Board that the proposed major event is not fiscally feasible and responsible.

23 (e) Applicants shall be responsible for posting notice of the public hearing at least  
24 seven calendar days prior to the hearing at which the application will be reviewed by ISCOTT.  
25 Such notice shall include a description of the streets that would be affected and shall be

1 posted in the area of the proposed temporary use or street occupancy according to rules and  
2 regulations prescribed by the Director of Transportation. The applicant shall submit a  
3 declaration under penalty of perjury to the Director of Transportation attesting that the  
4 required public notices have been posted.

5 (fe) ISCOTT Review and Approval Process. In reviewing an application, ISCOTT shall  
6 consider the impact of the temporary use or occupancy of public streets on the traffic,  
7 security, health, and safety of the public; determine the traffic, security, health, and safety  
8 requirements of the proposed temporary use or occupancy; and evaluate the measures  
9 proposed by the applicant to satisfy those requirements. For major events lasting five or more  
10 consecutive days and fully occupying two or more blocks that have been found to be fiscally feasible  
11 and responsible by the Board of Supervisors in accordance with subsection (d), ISCOTT shall  
12 forward the applicant's proposed emergency medical services plan to the Executive Director of  
13 the Department of Emergency Management (DEM) ~~Emergency Medical Services and Emergency~~  
14 ~~Operations Section (EMSEO)~~. ISCOTT shall consider the recommendations of DEM ~~EMSEO~~  
15 regarding the proposed emergency medical services plan. It shall be the duty of ISCOTT to  
16 also consider the following:

17 (1) Demonstrated ability of the applicant to comply with requirements necessary to  
18 protect the safety, health, and welfare of the public, including compliance with the  
19 requirements of ~~San Francisco~~ Health Code Article 19L, "Prohibiting Smoking at Certain  
20 Outdoor Events."

21 (2) Duration of the temporary use or street occupancy and the City's ability to  
22 accommodate such use or occupancy with the necessary resources.

23 (3) Overextension of the City's resources because of previously approved  
24 temporary use or occupancy of public streets or other activities that could cause scheduling  
25 conflicts during the same period.

1 (4) The availability of an appropriate emergency access plan.

2 (5) The number of major events (as defined in Section 6.3 below) scheduled  
3 during the period for which the applicant seeks a permit, the nature and location of the major  
4 events, and the demand these major events will have on the City's resources, including its  
5 police, emergency, and sanitation personnel. In considering the major events for which  
6 applications have been filed and/or approved. ISCOTT should give priority based on the  
7 chronological order in which the applications are received, and applicants denied permission  
8 on the basis that there are too many major events already approved or pending for approval  
9 shall be offered alternative dates by ISCOTT. Notwithstanding this provision, ISCOTT may, in  
10 its discretion, grant preference to recurring events traditionally or historically associated with a  
11 particular day or dates, provided that applications, once approved, cannot be revoked  
12 because of the subsequent filing of an application for a permit for an event traditionally or  
13 historically associated with a particular day or dates.

14 (6) If the application is related to a filming project to be conducted by the  
15 applicant, ISCOTT shall notify the Film Commission ~~(or other successor commission or division of~~  
16 ~~the Mayor's office)~~ and shall consider such conditions and criteria as the Film Commission shall  
17 attach to the application.

18 (gf) ISCOTT may impose additional requirements or conditions it deems necessary to  
19 protect the public interest by ensuring traffic management, security of property, and health  
20 and safety of citizens. At the time ISCOTT reviews the application, it shall also determine the  
21 necessity of and the total estimated actual costs incurred by the Municipal Transportation  
22 Agency to run motor coaches to accommodate the rerouting of electrically powered transit  
23 vehicles because of restrictions that are imposed by the temporary street closing. The  
24 applicant shall pay a fee to the SFMTA based on the number of electrically powered vehicle  
25 hours per line affected. For purposes of this provision, "vehicle hour" shall mean the number

1 of hours each coach on a line is in operation during the day of the street closing. If the  
2 application is approved, ISCOTT shall transmit to the applicant an invoice for the fee. The  
3 applicant shall make full payment of the fee no later than five days prior to the date of the  
4 street closing, or in accordance with a schedule agreed to by the Director of Transportation.  
5 ISCOTT shall not disapprove any application for a temporary use or occupancy of public  
6 streets because of the applicant's political, religious, or cultural orientation.

7 (~~hg~~) ISCOTT shall take action to approve or disapprove an application within 30 days  
8 of receipt of a complete application. Notice of ISCOTT's action of approval or disapproval  
9 shall be submitted to the Chief of Police; the Fire Chief; the Director of Public Health; the  
10 Director of Public Works; and the Executive Director of the Entertainment Commission, and  
11 be maintained as a matter of record. For major events, notice of ISCOTT's action of approval  
12 or disapproval shall also be submitted to the Director of DEM EMSEO.

13 (~~ih~~) Appeals Process. Should the application be disapproved by ISCOTT, the  
14 applicant may first appeal ~~the~~ ISCOTT's decision to the Director of Transportation if the  
15 application was filed at least 30 days prior to the date of the proposed temporary use or  
16 occupancy. Such appeal shall be made by filing the appeal with the Director of Transportation  
17 on a form provided by the Municipal Transportation Agency within five working days of  
18 disapproval. Upon receipt, the Director of Transportation shall set a time and place for hearing  
19 such appeal. In considering the appeal the Director of Transportation shall conduct a public  
20 hearing for which notice shall be posted at least 72 hours in advance of the hearing at the  
21 Municipal Transportation Agency, at the main library, and at the Office of the Clerk of the  
22 Board of Supervisors.

23 (~~ij~~) At the appeal hearing, the appellant and members of ISCOTT shall have an  
24 opportunity to present oral testimony and written materials in support of their positions. The  
25 Director of Transportation shall consider the same criteria as set forth in Section 6.2(~~fe~~). Upon

1 hearing the appeal, and after any further investigation by the Director of Transportation, the  
2 Director of Transportation may affirm, reverse, or modify the ISCOTT decision. Notice of the  
3 Director of Transportation's action of approval or disapproval shall be submitted to the Chief of  
4 Police, the Fire Chief, the Director of Public Health, the Director of Public Works, and the  
5 Executive Director of the Entertainment Commission, and shall be maintained as a matter of  
6 record.

7 (kj) If the Director of Transportation denies the application after the appeal described  
8 in the preceding paragraph, the applicant may then appeal the decision to the Board of  
9 Supervisors. Such appeal shall be made by filing the appeal with the Clerk of the Board, on a  
10 form provided by the Clerk, within five working days of the Director of Transportation's  
11 disapproval. The Board may establish a fee to be imposed upon the filing of any such appeal.  
12 Upon receipt, the Clerk shall set a time and place for hearing such appeal by the Board of  
13 Supervisors, which hearing shall be at the Board's next regular meeting, provided that all  
14 applicable public notice requirements are satisfied. The Board shall conduct the hearing  
15 according to the same standards of review as set forth in Section 6.2(fe). Upon hearing the  
16 appeal, and after any further investigation that the Board may request, the Board may affirm,  
17 reverse, or modify the Director of Transportation's decision. The decision of the Board  
18 regarding the appeal shall be final. The Clerk of the Board shall transmit copies of any  
19 legislation approving a temporary street closing to the Director of Public Works, Chief of  
20 Police, the Fire Chief, the Superintendent of Emergency Hospital Service of the Department of  
21 Public Health, the Executive Director of the Entertainment Commission, and ~~to~~ the Director of  
22 Transportation. For major events, the Clerk shall transmit copies of any legislation approving a  
23 temporary street closing to the Executive Director of DEM EMSEO.

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1           (~~lk~~) Any permission for the temporary use of occupancy of a public street authorized  
2 pursuant to these provisions shall be subject to the conditions set forth in Sections 6.7 and  
3 6.8.

4           (~~mt~~) Late Application. Should the applicant file an application for a proposed  
5 temporary use or occupancy fewer than 30 days prior to the date of the proposed use or  
6 occupancy, and not far enough in advance of the proposed use or occupancy to allow  
7 ISCOTT to consider the application at a regularly scheduled meeting of ISCOTT, then the  
8 Director of Transportation shall have the responsibility and duty to consider and approve or  
9 disapprove the application after consulting with the members of ISCOTT. The Director of  
10 Transportation shall conduct a public hearing for which notice shall be posted at least 24  
11 hours in advance of the hearing at the Municipal Transportation Agency, the main library, and  
12 at the Office of the Clerk of the Board of Supervisors. At the hearing, the applicant and  
13 interested persons shall have an opportunity to present oral testimony and written materials in  
14 support of their position. The Director of Transportation shall conduct the hearing according to  
15 the same standards of review as set forth in Section 6.2(~~fe~~) hereof. Notice of the Director of  
16 Transportation's action of approval or disapproval shall be submitted to the Chief of Police,  
17 the Chief of the Fire Department, the Director of Public Health, the Director of Public Works,  
18 and the Executive Director of the Entertainment Commission, and shall be maintained as a  
19 matter of record. In the event the Director of Transportation disapproves the application, the  
20 applicant shall have the right to appeal the Director of Transportation's decision to the Board  
21 of Supervisors in accordance with the same terms and conditions as set forth in Section  
22 6.2(~~fe~~).

1           **SEC. 6.3. MAJOR EVENTS DEFINED.**

2           "Major events" are those events, including athletic events and street fairs, involving any  
3 of the following: The use or occupancy of more than five blocks, the expected attendance or  
4 participation of more than 1,000 people at any one time, or the rerouting of more than three  
5 Municipal Railway transit lines. "Major events" shall also include any sports events with  
6 expected attendance of more than 50,000 people, or any parade governed by the provisions  
7 of Police Code Section 366 et seq.

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9           Section 2. Effective Date. This ordinance shall become effective 30 days after  
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
12 of Supervisors overrides the Mayor's veto of the ordinance.

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14           Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
18 additions, and Board amendment deletions in accordance with the "Note" that appears under  
19 the official title of the ordinance. Section 6.3 of the Transportation Code has been reprinted in  
20 this ordinance not for the purpose of amendment, but for the purpose of providing context to  
21 Section 6.2 of the Transportation Code, which this ordinance amends.

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1           This ordinance reflects the text of Section 6.2 of the Transportation Code as it existed  
2 on the date this ordinance was introduced, notwithstanding other proposed amendments to  
3 that section that have been introduced and are pending under Board of Supervisors File No.  
4 150975.

5  
6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8  
9 By: \_\_\_\_\_  
10       MANU PRADHAN  
11       Deputy City Attorney

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