

File No. 101190

Committee Item No. 2

Board Item No. 07

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee PUBLIC SAFETY

Date 12/6/10

Board of Supervisors Meeting

Date 12/14/10

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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Completed by: Gail Johnson

Date 12/2/10

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Registration and Other Requirements for Event Promoters.]

2
3 Ordinance adding Article 15.7 to the San Francisco Police Code, requiring event
4 promoters to register with the Entertainment Commission; prohibiting holders of
5 certain entertainment-related permits, and registered promoters, from retaining an
6 unregistered promoter to hold an event; and authorizing under certain circumstances
7 for certain promoters reporting requirements, increased security plan requirements for
8 events they promote, general liability insurance requirements, a criminal background
9 check requirement, and other requirements.

10 Note: Additions are single-underline italics Times New Roman;
11 deletions are ~~striketrough italics Times New Roman~~.
12 Board amendment additions are double underlined.
Board amendment deletions are ~~striketrough normal~~.

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

14
15 Section 1. The San Francisco Police Code is hereby amended by adding Article 15.7
16 to read as follows:

17
18 ARTICLE 15.7: EVENT PROMOTERS

19 Sec. 1075.1. Definition of Event Promoter.

20 Sec. 1075.1.1. Other Definitions.

21 Sec. 1075.2. Event Promoter Registration Required.

22 Sec. 1075.2.1. Submission of Registration Information.

23 Sec. 1075.2.2. Online Registration and Posting.

24 Sec. 1075.2.3. Registration Receipt.

25 Sec. 1075.2.4. Sale or Change of Ownership.

1 Sec. 1075.3. Event Promoter Records and Information.

2 Sec. 1075.4. Permittees' Use of Registered Event Promoters.

3 Sec. 1075.5. Director's Powers Regarding Event Promoters.

4 Sec. 1075.5.1. Procedures and Appeal Rights.

5 Sec. 1075.5.2. Duration of Director's or Commission's Order.

6 Sec. 1075.5.3. Online Disclosure of Director's or Commission's Order.

7 Sec. 1075.6. Multiple Event Promoters for a Single Event.

8 Sec. 1075.7. Administrative Penalties for Event Promoters.

9 Sec. 1075.8. Sanctions for Permittees.

10 Sec. 1075.9 Relationship to Other Municipal Code Provisions.

11 Sec. 1075.10. Adoption of Regulations.

12 Sec. 1075.11. Promotion of General Welfare.

13 Sec. 1075.12. Authority of San Francisco Police Department.

14 Sec. 1075.13. Severability.

15 Sec. 1075.14. Operative Date.

16
17 **SEC. 1075.1. DEFINITION OF EVENT PROMOTER.**

18 For purposes of this Article:

19 (a) "Event" means an occasion or happening at which Entertainment is presented or a
20 Dance occurs under circumstances where a Place of Entertainment Permit, Extended-Hours Premises
21 Permit, One Time Event Permit, and/or Dance Hall Permit is required, provided all of the following
22 conditions are met:

23 (1) The venue for the Event, if held indoors, has a legal occupancy limit of 100 persons or
24 more; the Event, if held outdoors, is anticipated to have 100 persons or more in attendance at any one
25 time;

1 (2) Some portion of the Event takes place between the hours of 10:00 p.m. to 6:00 a.m.;

2 (3) The Event is not of a bona fide social character. To be of a bona fide social character,
3 admission must be limited strictly on invitation of the Person acting as host; no fee, either by way of
4 admission or in any other manner may be charged, other than to cover costs; and no profit is intended
5 to be made or other commercial or marketing advantage intended to be sought; if an Event
6 Promoter is uncertain whether the Event is of a bona fide social character, the Event Promoter shall
7 inquire of the Director in advance of the Event;

8 (4) The Event is not a bona fide fundraiser. A bona fide fundraiser is held to raise funds for
9 a charitable, political, religious, or similar purpose, and none of the proceeds can be used for any
10 other purpose, except to cover costs incurred in holding the fundraiser, provided, however, that no
11 proceeds of the fundraiser may inure to the benefit of the Person promoting the event; if an Event
12 Promoter is uncertain whether the Event is a bona fide fundraiser, the Event Promoter shall inquire of
13 the Director in advance of the Event;

14 (5) The Event is not held at City Hall, the Fine Arts Museums of San Francisco, the Asian
15 Art Museum of San Francisco, the War Memorial and Performing Arts Center, the California Academy
16 of Sciences, or the San Francisco Public Library including all branches; and

17 (6) The Event is not one in which the City has a management role, either
18 exclusively or in concert or partnership with a private individual or entity; and

19 (67) The Event is not held at a recreational or social hall or similar venue on the property of
20 a church, synagogue, mosque, or other house of worship.

21 (b) "Hold an Event" means to take action to organize the Event, arrange the program for
22 the Event, or encourage attendance at the Event. To Hold an Event includes but is not limited to the
23 following activities:

24 (1) Contracting for or renting the Event site;

25 (2) Exercising some control over the Event site during the Event;

1 (3) Selecting or contracting for entertainment for the Event;

2 (4) Advertising or publicizing the Event to members of the public; or

3 (5) Soliciting members of the public to attend the Event.

4 (c) "Receives Compensation in Connection with the Event" means one or more of the
5 following:

6 (1) Receiving or sharing in admission or entrance fees paid by those attending the Event;

7 (2) Receiving or sharing in compensation, revenue, or other consideration for Holding the
8 Event; or

9 (3) Receiving or sharing in revenue from food, beverages, or items sold at the Event.

10 (d) "Event Promoter" is any Person who both Holds an Event and Receives Compensation
11 in Connection with the Event, but does not include the following:

12 (1) A Permittee, when the Event is held at the venue of the Permittee's Place of
13 Entertainment Permit, Extended-Hours Premises Permit, One-Time Event Permit, or Dance Hall
14 Permit;

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

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

20 (4) An entertainer or performer who is not compensated, or who is compensated solely for
21 his or her performance or presentation of Entertainment at the Event;

22 (5) An agent of an entertainer or performer described in subsection (d)(4) above;

23 (6) An employee of an Event Promoter; or

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

1 **SEC.1075.1.1. OTHER DEFINITIONS.**

2 For purposes of this Article, all terms that are used in this Article and defined in Police Code
3 Sections 1022, 1060, or 1070 have the same meaning as in those Police Code Sections. In addition, for
4 purposes of this Article:

5 (a) "City" is the City and County of San Francisco.

6 (b) "Commission" is the Entertainment Commission.

7 (c) "Permit" is a Place of Entertainment Permit, Extended-Hours Premises Permit, One
8 Time Event Permit, or Dance Hall Permit.

9 (d) "Permittee" is the holder of a Place of Entertainment Permit, Extended-Hours Premises
10 Permit, One Time Event Permit, or Dance Hall Permit.

11 (e) "Registrant" is an Event Promoter who has registered with the Commission under
12 Sections 1075.2.1 and 1075.2.2.

13 (f) "Registration Receipt" is the record issued to a Registrant by the Director under Section
14 1075.2.3

15 **SEC. 1075.2. EVENT PROMOTER REGISTRATION REQUIRED.**

16 Any Person who acts as an Event Promoter in the City shall register with the Commission as an
17 Event Promoter.

18 **SEC. 1075.2.1. SUBMISSION OF REGISTRATION INFORMATION.**

19 (a) To register as an Event Promoter, a Person shall complete a form or forms prescribed
20 by the Director, and submit the completed form(s) to the Director. The form(s) shall be submitted
21 under penalty of perjury.

22 (b) The form(s) shall include the following information:

23 (1) The Person's name, address, phone number, e-mail address (if any), and fax number (if
24 any).

25 (2) The Person's trade name or business name when acting as an Event Promoter.

1 (3) All trade names or business names used by the Person when acting as an Event
2 Promoter during the three years prior to submission of the form(s).

3 (4) If the Person is a corporation, the name of the corporation shall be set forth as shown in
4 its articles of incorporation, along with the date and place of incorporation and the name and address
5 of officers, directors, and of each shareholder owning ten percent or more of the stock of the
6 corporation.

7 (5) If the Person is a partnership, the name and address of each of the partners, including
8 limited partners. If one or more of the partners is a corporation, the information required in
9 subsections (b)(1) through (b)(4) above pertaining to a corporate applicant apply for that partner.

10 (6) If the Person is a corporation or partnership, the names and business telephone
11 numbers, cell phone numbers, email addresses, fax numbers, and any other business contact
12 information for the day-to-day manager(s) of the corporation or partnership.

13 (7) The name(s) and address(es) that appear on any business registration certificate for the
14 Person.

15 (8) The address to which notice to the Person, when required, is to be sent or mailed, and
16 the name and address of the individual(s) authorized to accept service of process for the Person.

17 (9) At the discretion of the Director, other identification and contact information similar in
18 nature to the information in subsections (b)(1)-(8) above.

19 (c) A Registrant shall update the information required to be submitted under subsection (b)
20 above within 30 days after the information becomes inaccurate or incomplete.

21 (d) If the Director determines that a Registrant, or a Person seeking to become a
22 Registrant, has intentionally submitted information that is false or incomplete in any material
23 respect, or that a Registrant has intentionally failed to update information resulting in a
24 material omission, the Director may issue an Order that the Registrant be removed from, or
25 the Person seeking to become a Registrant not be included in, the online registration system

1 described in Sections 1075.2.2(a) and (b). The Director's Order shall be subject to the
2 procedures and appeal rights specified in Section 1075.5.1. An Order imposed under this
3 subsection (d) by the Director, or by the Commission on appeal of the Director's Order, shall
4 be in effect for one year. A Registrant or a Person seeking to become a Registrant who is the
5 subject of an Order imposed by the Director under this subsection (d) may at any time request
6 that the Director lift the Order or shorten its duration. The Director's decision in response to
7 the request shall not be appealable to the Commission. A Registrant or Person seeking to
8 become a Registrant who is the subject of an Order imposed by the Commission on appeal
9 that modifies the Director's Order may at any time request that the Commission lift the Order
10 or shorten its duration. The Commission may make a decision in response to the request, or
11 delegate the decision to the Director.

12 **SEC. 1075.2.2. ONLINE REGISTRATION AND POSTING.**

13 (a) The City shall make the form(s) described in Sections 1075.2.1(a) and (b) available
14 online. Persons shall be permitted to complete and submit the forms to the Director online.

15 (b) All completed forms shall be publicly available online on the Commission's website or
16 such other website as the Director, in consultation with the Department of Technology, shall determine.
17 Any completed forms submitted in hard copy to the Director shall be placed online by the Director with
18 the other completed forms submitted online. In lieu of the requirement that completed forms be posted
19 online, the Director may post online a registry of Registrants containing the information submitted
20 under Sections 1075.2.1(b)(1) and (2), and such other information submitted under Sections
21 1075.2.1(b)(3)-(9) as the Director chooses to include in the registry.

22 (c) The Director shall make a public announcement when the online registration system
23 described in subsections (a) and (b) above become operational. The Director's announcement shall be
24 made by posting a prominent notice on the Commission's website; by mailing or emailing the notice to
25 all Event Promoters for which the Director has contact information; by mailing or emailing the notice

1 to all Permittees and requesting that they forward the notice to Event Promoters; and, in the Director's
2 discretion, by mailing or emailing the notice to trade associations, if any, connected to Event
3 Promoters. The Director may take other measures, in the Director's discretion, to publicize the online
4 registration system. The Director's failure to comply with this subsection (c) shall not invalidate this
5 Article or affect its operative date.

6 (d) The Commission shall regularly place a notice on agendas for its regular
7 meetings that informs the public of Persons who have become new Registrants.

8 **SEC. 1075.2.3. REGISTRATION RECEIPT.**

9 Upon submission of the completed form(s) required under Sections 1075.2 and 1075.2.1, the
10 Director shall issue a Registration Receipt to the Registrant. The Director shall determine the form
11 and content of the Registration Receipt.

12 **SEC. 1075.2.4. SALE OR CHANGE OF OWNERSHIP.**

13 (a) When there is a sale of the Registrant's business or a change of ownership, the
14 Registrant shall notify the Director, who shall remove the Registrant from the online system described
15 in Section 1075.2.2(b).

16 (b) A sale of the Registrant's business or a change of ownership does not make the Person
17 that is the new owner a Registrant. To act as an Event Promoter, the Person that is the new owner
18 must become a Registrant by complying with Sections 1075.2 and 1075.2.1.

19 (c) For a Registrant that is a corporation, a change of ownership occurs when (i) a Person
20 who, at the time of the Registrant's submitting information to the Director under Section 1075.2.1, did
21 not own or control more than 50% of the shares of stock in the corporation, acquires or gains control
22 over more than 50% of the shares, or (ii) Persons who, at the time of the Registrant's submitting
23 information to the Director under Section 1075.2.1, did not cumulatively own or control more than
24 50% of the shares of stock in the corporation, cumulatively acquire or gain control over more than
25

1 50% of the shares, provided that each of those Persons has acquired or gained control over at least
2 10% of those shares.

3 (d) For a Registrant that is a partnership, a change of ownership occurs when (i) a Person
4 who, at the time of the Registrant's submitting information to the Director under Section 1075.2.1, did
5 not own or control more than 50% of the partnership or its assets, gains ownership or control of more
6 than 50% of the partnership or its assets, or (ii) Persons who, at the time of the Registrant's submitting
7 information to the Director under Section 1075.2.1, did not cumulatively own or control more than
8 50% of the partnership or its assets, cumulatively gain ownership or control of more than 50% of the
9 partnership or its assets, provided that each of those Persons has gained ownership or control over at
10 least 10% of the partnership or its assets.

11 **SEC. 1075.3. EVENT PROMOTER RECORDS AND INFORMATION.**

12 Any Event Promoter or Permittee shall cooperate with City officials, including but not limited to
13 the Director and the Commission, in providing access to records or any other information relevant to
14 determining:

15 (a) The Event Promoter's compliance with this Article or with any Order imposed under
16 Sections 1075.5 or 1075.5.1;

17 (b) A Permittee's compliance with this Article; and

18 (c) The Event Promoter's role and involvement in promoting an Event. The purpose of this
19 subsection (c) is to ascertain the Event Promoter's connection, if any, to the risk or actual occurrence
20 of injury to persons, damage to property, or other safety problems associated with an Event.

21 **SEC. 1075.4. PERMITTEES' USE OF REGISTERED EVENT PROMOTERS.**

22 A Permittee may not have a Person act as an Event Promoter at or in connection with an Event
23 at a Place of Entertainment, Extended-Hours Premises, location of a One Time Event, or Dance Hall
24 unless the Event Promoter is a Registrant. For purposes of this requirement, the Permittee may
25 conclude that an Event Promoter is a Registrant if the Event Promoter is listed online in the system

1 described in Section 1075.2.2(b). In circumstances where the Permittee does not have access to the
2 online system, or where a Registrant is not included in the online system due to the City's delay, failure,
3 or error, the Permittee may conclude that the Event Promoter is a Registrant based on (1) the Event
4 Promoter's possession of a valid Registration Receipt and (2) confirmation from the Director that the
5 Event Promoter is a Registrant.

6 **SEC. 1075.5. DIRECTOR'S POWERS REGARDING EVENT PROMOTERS.**

7 If an Event Promoter has promoted one or more Events (i) whether or not within the territorial
8 limits of the City, at which the Director determines, in consultation with the Police Department, that
9 there has been a significant risk or actual occurrence of injury to persons, damage to property, or other
10 serious safety problems, or (ii) within the territorial limits of the City, at which the Director determines,
11 in consultation with the Police Department, that there has been an actual occurrence of serious
12 neighborhood disturbance including but not limited to traffic, litter, and noise problems, and if the
13 Director determines, in consultation with the Police Department, that the Event Promoter bears
14 significant responsibility for the risk or actual occurrence referenced in (i) above or the actual
15 occurrence referenced in (ii) above, the Director may issue an Order that:

16 (a) Requires the Event Promoter to report to the Director some or all future Events within
17 the City for which the Event Promoter will be Holding the Event. The report shall be promptly made
18 following the Event Promoter's knowledge that the Event Promoter will be Holding the Event;

19 (b) Requires that enhanced Security Plan requirements shall apply to some or all Permittees
20 that use the Event Promoter to hold an Event;

21 (c) Requires that the Event Promoter hold commercial general liability insurance to cover
22 bodily injury and property damage arising from an Event. The Director's Order shall specify the
23 amount of insurance to be held and other conditions pertaining to the insurance. The Director's Order
24 may extend to insurance for a particular Event or for all Events promoted by the Event Promoter;
25

1 (d) Requires that the Event Promoter's managers, employees, and other personnel be
2 subject to criminal background checks; and/or

3 (e) Requires that the Event Promoter adhere to other conditions and requirements that are
4 warranted in light of the facts and circumstances giving rise to the Order.

5 **SEC. 1075.5.1. PROCEDURES AND APPEAL RIGHTS.**

6 (a) The Director shall send an Order imposed under Section 1075.5 to the Event Promoter
7 electronically and by mail or personal delivery. The Order shall state its date of issuance and its
8 effective date.

9 (b) To provide the Event Promoter an opportunity to appeal, the Director's Order shall not
10 take effect for ten City business days from the date the Order issues. Any Event Promoter directed to
11 comply with the Director's Order may appeal the Director's Order within ten City business days of the
12 date that the Order issues by filing a written request for review with the Secretary of the Commission.
13 The Event Promoter shall not be required to comply with the Director's Order pending the
14 Commission's action on the matter. If the Event Promoter withdraws the appeal, the Director's Order
15 shall take effect immediately upon the withdrawal of the appeal or upon the effective date of the
16 Director's Order, whichever is later.

17 (c) When acting on the appeal, the Commission may affirm, overturn, or modify the
18 Director's Order.

19 **SEC. 1075.5.2. DURATION OF DIRECTOR'S OR COMMISSION'S ORDER.**

20 (a) An Order imposed by the Director under Section 1075.5 may, at the Director's
21 discretion, include an expiration date. An Order imposed by the Commission under Section
22 1075.5.1(c) that modifies the Director's Order may, at the Commission's discretion, include an
23 expiration date.

24 (b) An Event Promoter who is the subject of an Order imposed by the Director under
25 Section 1075.5 may at any time request that the Director lift the Order or shorten its duration. The

1 Director's decision in response to the request shall not be appealable to the Commission. An Event
2 Promoter who is the subject of an Order imposed by the Commission under Section 1075.5.1(c) that
3 modifies the Director's Order may at any time request that the Commission lift the Order or shorten its
4 duration. The Commission may make a decision in response to the request, or delegate the decision to
5 the Director.

6 **SEC. 1075.5.3. ONLINE DISCLOSURE OF DIRECTOR'S OR COMMISSION'S ORDER.**

7 (a) The Director shall include in the online system described in Section 1075.2.2(b) a
8 reference to any Order that is in effect, imposed by the Director under Section 1075.5 or by the
9 Commission under Section 1075.5.1, against an Event Promoter. The Director shall determine the
10 degree of detail pertaining to the Order to be included in the online system.

11 (b) When using an Event Promoter in connection with an Event, Permittees have an
12 obligation to ascertain whether there is an Order in effect, imposed by the Director under Section
13 1075.5 or by the Commission under Section 1075.5.1, against an Event Promoter that requires
14 enhanced Security Plan requirements for Events to be Held by the Event Promoter or requires the
15 Event Promoter to have commercial general liability insurance in connection with an Event. If a
16 Permittee contracts with or otherwise engages the services of an Event Promoter, the Permittee (in
17 addition to the Event Promoter) has a duty to proceed with the Event in a manner that is consistent with
18 the requirements of the Director's or Commission's Order.

19 **SEC. 1075.6. MULTIPLE EVENT PROMOTERS FOR A SINGLE EVENT.**

20 (a) The definition of Event Promoter does not limit the number of Persons who may qualify
21 as an Event Promoter for a single Event. There can be more than one Event Promoter for a single
22 Event.

23 (b) An Event Promoter may not contract with or otherwise engage another Event Promoter
24 to Hold the same Event unless the other Event Promoter ("Other Event Promoter") is a Registrant. For
25 purposes of this requirement, the Event Promoter may conclude that the Other Event Promoter is a

1 Registrant if the Other Event Promoter is listed online in the system described in Section 1075.2.2(b).
2 In circumstances where the Event Promoter does not have access to the online system, or where the
3 Other Event Promoter is not included in the online system due to the City's delay, failure, or error, the
4 Event Promoter may conclude that the Other Event Promoter is a Registrant based on (1) the Other
5 Event Promoter's possession of a valid Registration Receipt and (2) confirmation from the Director
6 that the Other Event Promoter is a Registrant.

7 (c) An Event Promoter that contracts with or otherwise engages another Event Promoter to
8 Hold the same Event must promptly notify the Permittee that the Other Event Promoter is also Holding
9 the Event.

10 (d) A Permittee's obligation under Section 1075.4 to only use registered Event Promoters
11 for an Event applies to all Event Promoters Holding the Event.

12 **SEC. 1075.7. ADMINISTRATIVE PENALTIES FOR EVENT PROMOTERS.**

13 Any Event Promoter who violates Sections 1075.2, 1075.2.1, 1075.2.4, 1075.3, 1075.6, or an
14 Order imposed under Sections 1075.5 or 1075.5.1 shall be subject to administrative penalties as set
15 forth in Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative
16 Fines," which is hereby incorporated in its entirety and which shall govern the amount of fees and the
17 procedure for imposition, enforcement, collection, and administrative review of administrative
18 citations. The Director shall impose fines for violation of the aforementioned Sections or Orders as set
19 forth in Section 100.5(a) of the Administrative Code. Each day during which a Section or Order is
20 violated shall be considered a separate violation.

21 **SEC. 1075.8. SANCTIONS FOR PERMITTEES.**

22 Any Permittee who violates Sections 1075.3, 1075.4, or 1075.5.3 shall be subject to the
23 following sanctions:

24 (a) Permit suspension under Sections 1027, 1060.20 et seq., and 1070.17 et seq. of the
25 Police Code;

1 **(b) Permit revocation under Section 1027 of the Police Code and, where applicable,**
2 **Sections 1060.20.4, 1060.20.5, 1070.20(a)(4), and 1070.20(a)(5) of the Police Code;**

3 **(c) Criminal penalties under Sections 1027, 1060.25(a), and 1070.24(a) of the Police Code;**
4 **and**

5 **(d) Administrative penalties as set forth in Administrative Code Chapter 100, "Procedures**
6 **Governing the Imposition of Administrative Fines," which is hereby incorporated in its entirety and**
7 **which shall govern the amount of fees and the procedure for imposition, enforcement, collection, and**
8 **administrative review of administrative citations. The Director shall impose fines for violation of this**
9 **Article as set forth in Section 100.5(a) of the Administrative Code. Each day during which a Section or**
10 **Order is violated shall be considered a separate violation.**

11 **SEC. 1075.9. RELATIONSHIP TO OTHER MUNICIPAL CODE PROVISIONS.**

12 **This Article is intended to enhance the City's powers regarding the matters covered in the**
13 **Article. It is not intended to limit the City's existing powers. By way of example but not limitation:**

14 **(a) This Article does not limit the duties and responsibilities of Permittees, or the sanctions**
15 **and penalties that may be imposed against Permittees under Articles 15.1 and 15.2 of the Police Code.**
16 **Imposition of an Order against an Event Promoter under Section 1075.5 or 1075.5.1 does not absolve a**
17 **Permittee of responsibility for the safety problems that gave rise to the Order against the Event**
18 **Promoter.**

19 **(b) This Article does not limit the City's powers regarding dances and Dance Halls as**
20 **specified in Sections 1022-1027 of the Police Code.**

21 **SEC. 1075.10. ADOPTION OF REGULATIONS.**

22 **The Commission may adopt regulations implementing the provisions of this Article.**

23 **SEC. 1075.11. PROMOTION OF GENERAL WELFARE.**

24 **In undertaking the enforcement of this Article, the City is assuming an undertaking only to**
25 **promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an**

1 obligation for breach of which it is liable in money damages to any person who claims that such breach
2 proximately caused injury.

3 **SEC. 1075.12. AUTHORITY OF SAN FRANCISCO POLICE DEPARTMENT.**

4 Nothing in this Article is intended to restrict or alter in any way the authority vested in the San
5 Francisco Police Department under Federal, State, or local law.

6 **SEC. 1075.13. SEVERABILITY.**

7 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Article or
8 any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of
9 competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining
10 portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would
11 have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof,
12 irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences,
13 clauses or phrases be declared unconstitutional or invalid or ineffective.

14 **SEC. 1075.14. OPERATIVE DATE.**

15 When the online registration system described in Sections 1075.2.2(a) and (b) is operational,
16 the Director shall post a notice to that effect on the Commission's website and shall file a notice to that
17 effect with the Clerk of the Board of Supervisors. This Article shall become operative on its effective
18 date if 30 days have elapsed since the aforementioned posting of the website notice and filing of the
19 notice with the Clerk. Otherwise, this Article shall become operative after its effective date once 30
20 days have elapsed since the posting of the website notice and filing of the notice with the Clerk.

21
22 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

23 By: 
24 PAUL ZAREFSKY
25 Deputy City Attorney

Supervisors Chiu, Maxwell
BOARD OF SUPERVISORS

LEGISLATIVE DIGEST (Revised)

[Registration and Other Requirements for Event Promoters]

Ordinance adding Article 15.7 to the San Francisco Police Code, requiring event promoters to register with the Entertainment Commission; prohibiting holders of certain entertainment-related permits, and registered promoters, from retaining an unregistered promoter to hold an event; and authorizing under certain circumstances for certain promoters reporting requirements, increased security plan requirements for events they promote, general liability insurance requirements, a criminal background check requirement, and other requirements.

Note: This legislative digest reflects changes made by the Amendment of the Whole (Board of Supervisors meeting, 11/23/10) and in the earlier substitute ordinance introduced at the Board meeting of 11/9/10 and heard at the 11/15 Public Safety Committee hearing.

Existing Law

No ordinance requires Event Promoters to register with the City, or otherwise regulates them.

Amendments to Current Law

Definition of "Event Promoter"

There are four components to the definition of "Event Promoter."

1. There must be an "Event." An Event is defined broadly as "an occasion or happening at which Entertainment is presented or a Dance occurs under circumstances where a Place of Entertainment Permit, Extended-Hours Premises Permit, OneTime Event Permit, and/or Dance Hall Permit is required." There is no requirement that the entertainment/dance occur in a venue that is actually permitted. There are seven limits placed on the definition of Event:

- The venue, if indoors, has a legal occupancy limit of at least 100 persons; the Event, if outdoors, is anticipated to have 100 persons or more in attendance at any one time.
- Some portion of the Event occurs between 10 p.m. and 6 a.m.
- The Event is not of a bona fide social character (to be of a bona fide social character, admission must be limited on invitation of the host, no fee may be charged, except to cover costs, and no profit is intended to be made or other commercial or marketing advantage intended to be sought).
- The Event is not a fundraiser for a charitable, political, religious, or similar purpose (to be a bona fide fundraiser, no proceeds can be used for any other purpose, except operating costs, provided that no proceeds benefit the Person promoting the Event).
- The Event is not held at certain City buildings.

- The Event is not one in which the City has a management role, either exclusively or in concert/partnership with a person or entity.
- The Event is not held at a recreational or social hall at a house of worship.

If there is a question whether an Event is not of a bona fide social character or is not a bona fide fundraiser, the Event Promoter must ask the Director in advance of the Event.

2. The Event Promoter must "Hold an Event." This means take action to (a) organize the Event, (b) arrange the program for the Event, or (c) encourage attendance at the Event. Some examples of Holding an Event are:

- Contracting for or renting the Event site.
- Exercising some control over the site during the Event.
- Selecting or contracting for entertainment for the Event.
- Advertising or publicizing the Event to the public.
- Soliciting the public to attend the Event.

3. The Event Promoter must also "Receive Compensation in Connection With the Event." This means (a) receiving or sharing in entrance fees paid by attendees, (b) receiving or sharing in compensation, revenue, or other consideration for Holding the Event, or (c) receiving or sharing in revenue from food, beverages, or items sold at the Event.

4. If the above three components are satisfied, a Person is an Event Promoter unless the Person is within one of the following seven exclusions:

- A Permittee (holder of a Place of Entertainment, Extended-Hours Premises, One Time Event, or Dance Hall permit), when the Event is held at the permit venue.
- A print, broadcast, or internet medium paid solely for page space or broadcast time to advertise the Event.
- A ticket seller who sells tickets to an Event from its own place of business, not on the site of the Event, and in advance of the Event.
- An entertainer or performer who is not compensated, or is compensated only for the entertainment or performance.
- An agent of such an entertainer or performer.
- An employee of an Event Promoter.
- A City employee, official, or agent, acting in that capacity.

The definition of Event Promoter does not limit the number of Persons who may qualify as an Event Promoter for a single Event; there can be more than one for a single Event.

Registration Requirement for Event Promoters

All Event Promoters must register with the Entertainment Commission ("Commission"). Registration involves submitting a form to the Executive Director ("Director") that includes basic information about the Event Promoter. The ordinance does not become operative until there is in place an online system that makes it possible for Event Promoters to submit the form online, and allows the Director to post the submitted forms online or, alternatively, post online an Event Promoter registry.

When there is a sale or change of ownership of the Event Promoter's business, the registration lapses and the new owner must register anew as an Event Promoter.

Requirement that Permittees Only Retain Registered Event Promoters

Permittees (holders of a Place of Entertainment, Extended-Hours Premises, One Time Event, or Dance Hall permit) may not have a person act as an Event Promoter who has not registered with the Commission. Permittees may conclude that an Event Promoter is registered if the Event Promoter appears in the online registration system previously described. If a Permittee does not have access to the online system, the Permittee may conclude that an Event Promoter is registered based on both (a) the Event Promoter's possession of a valid registration receipt issued by the Director and (b) confirmation from the Director that the Event Promoter is registered.

Director or Commission Orders Regarding Event Promoters

For the Director to issue an Order against an Event Promoter, the Director must determine that the Event Promoter has promoted one or more Events at which:

- There has been a significant risk or actual occurrence of injury to persons, damage to property, or other safety problems, OR
- There has been an actual occurrence of serious neighborhood disturbance including but not limited to traffic, litter, and noise problems.

Further, the Director must determine that the Event Promoter bears significant responsibility for one of the above conditions. The Director's determinations referenced above are made in consultation with the Police Department.

If the above preconditions are met, the Director may issue the following Orders:

- Requiring the Event Promoter to report some or all future Events in the City that the Event Promoter will Hold.
- Requiring enhanced Security Plan requirements to apply to some or all Permittees using the Event Promoter to hold an Event.
- Requiring the Event Promoter to have general commercial liability insurance for some or all Events.

- Requiring the Event Promoter's personnel to be subject to criminal background checks.
- Requiring the Event Promoter to adhere to other conditions and requirements that are warranted given the circumstances that prompted the Order.

The Event Promoter may appeal the Director's Order to the Commission, which may affirm, overturn, or modify the Order. During the pendency of the appeal, the Director's Order is stayed. The Director must include in the online registration system previously described a reference to any Director's or Commission's Order that is in effect.

If the Permittee uses an Event Promoter against whom the Director or Commission has issued an Order, the Permittee (as well as the Event Promoter) must proceed with the Event in a way that is consistent with the Order.

Duties of Event Promoters

In addition to having to register with the Commission and follow any Order of the Director or Commission as specified above, Event Promoters have the following duties:

- To notify the Director when there is a sale or change of ownership of the Event Promoter, so that the Director will remove the Event Promoter from the online registration system.
- To cooperate with City officials in providing access to records or other information relevant to determining compliance with the ordinance or with a Director or Commission Order, or to understanding the Event Promoter's involvement in promoting an Event.
- To not contract with or engage another Event Promoter in connection with an Event if the other Event Promoter has not registered with the Commission.
- To notify the Permittee if the Event Promoter contracts with or engages another Event Promoter in connection with an Event.

Sanctions

An Event Promoter who violates the ordinance or a Director's or Commission's Order is subject to the range of administrative penalties outlined in Chapter 100 of the Administrative Code. In addition, if an Event Promoter (or a Person seeking to become an Event Promoter) has intentionally submitted registration information that is false or incomplete in a material respect, or has intentionally failed to update information resulting in a material omission, the Director may remove the violator from the registry for a period of one year, subject to an appeal process to the Commission.

A Permittee who violates the ordinance is also subject to administrative penalties, and, in addition, depending on the circumstances, may be subject to permit suspension, permit revocation, or criminal penalties.



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
GAVIN NEWSOM, MAYOR

December 2, 2010

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: File No. 101190 [Registration and Other Requirements for Event Promoters.]

UPDATED RESPONSE

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On October 4, 2010, the Small Business Commission heard and recommended approval with modification of Board of Supervisors File No. 101190. Since this hearing, all recommendations of the Small Business Commission have been incorporated into the ordinance.

The Commission thanks Supervisor Chiu and members of the Public Safety Committee for adopting these recommendations. By soliciting and implementing input from a variety of stakeholders, including the Small Business Commission and the entertainment industry, this ordinance applies reasonable controls to address the need to regulate promoters.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

cc. Supervisors Chiu, Maxwell, Mirkarimi, Elsbernd
Starr Terrell, Mayor's Office
Gail Johnson, Clerk of the Public Safety Committee

