

[Promoting and Sustaining Music and Culture in San Francisco]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by adding Section 16.128, which is designed to promote music and culture in San Francisco by establishing a music and culture sustainability policy, implementing those principles in part through a process for reviewing and possibly revising City Codes, and incorporating those principles into the General Plan of the City and County; and amending Section 4.106 to provide that the Board of Appeals shall have jurisdiction to hear appeals of denials of entertainment-related permits and events under the jurisdiction of the Recreation and Park Commission.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2008, a proposal to amend the Charter of the City and County by adding Section 16.128 and amending Section 4.106 to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

SEC. 16.128. PROMOTING AND SUSTAINING MUSIC AND CULTURE IN SAN FRANCISCO.

(a) Music and Culture Sustainability Policy. San Francisco has a rich music and cultural heritage manifested in numerous outdoor events such as street fairs and music festivals and in many indoor venues such as community centers, nightclubs, and theaters. Music and cultural events and performances are a distinct and important feature of San Francisco that make it a desirable place to live. Policies and programs of the City and County should foster and sustain music and culture in San Francisco. The following general principles constitute the

City and County's music and culture sustainability policy. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1. Indoor and outdoor music, theater, performance, nightlife, dancing, and other entertainment venues and cultural events are a vital component of the quality of life for all the diverse communities of San Francisco. Such venues and events offer important social avenues for individuals and groups of all ages, foster positive and meaningful interactions between individuals and within communities in San Francisco, and strengthen neighborhoods in San Francisco.

2. San Francisco's vibrant music, nightlife, and cultural life is a central component of its attractiveness not only to residents but also to visitors; both those coming from the greater San Francisco Bay Area, and tourists, business visitors, and convention attendees who come to San Francisco from other parts of the United States and the world. The wide variety of music, entertainment, and cultural events are a boon to the tourism industry in San Francisco and have a major, positive impact on the San Francisco economy.

3. The City and County is committed to a general policy of sustaining indoor music and performance venues and outdoor special events such as but not limited to parades, festivals, neighborhood celebrations, and street fairs. As development proceeds in San Francisco, with new buildings constructed, possible zoning changes, evolving infrastructure, changes in transportation systems and traffic patterns, and the like, the City and County must be vigilant to ensure that San Francisco remains a hospitable environment for music and cultural venues and events. San Francisco's music and performance venues and indoor and outdoor cultural events should be preserved and enhanced and protected from displacement due to development.

4. The City and County is committed to a general policy of supporting and encouraging the use of City and County property, including Port property, for indoor and outdoor music and other cultural events, consistent with the requirements of state law. By making public property

available for such events, more residents and visitors to San Francisco are able to attend such events and thereby share in the rich musical and cultural experiences that San Francisco offers.

5. The City and County supports and encourages the use of galleries, art studios, salons, warehouses, coffee houses, community centers, and other unique places for cultural events, such as but not limited to musical performances, DJ events, readings, theater, dance events, fairs, festivals, workshops, fundraisers, and other community events. Limitations of space within San Francisco make it important for the City and County to be creative and expansive in recognizing the value of many different kinds of venues for music, entertainment, and cultural events.

6. The City and County supports and encourages music, theater, performance, dance, street fairs, and other programs and events that reflect the cultural diversity of San Francisco. For San Francisco's musical and cultural life to remain vibrant, the City and County must be receptive to new and evolving perspectives on music and culture.

7. The City and County supports and encourages innovative approaches to the provision of low-cost housing to musicians, artists, performers, event planners, and others who have an integral role in San Francisco's music and cultural life.

8. The City and County supports and encourages educational programs to promote music, theater, dance, and other performance arts, including but not limited to after-school programs, continuing education programs, performance career paths, and education in media and digital arts and video and audio technology.

9. The City and County supports and encourages workforce development efforts between event organizers and the City and County, such as but not limited to training workers in providing security for outdoor events and in facilitating the clean-up of neighborhoods impacted by large outdoor events.

10. The City and County supports and encourages ongoing research activities on the economic impact of street fairs, nightlife, dance clubs, music halls, other performance and entertainment venues, and cultural events. These research activities should include not merely

research efforts by officers, boards, commissions, and departments of the City and County, but also research efforts of persons or entities outside of City government. Through contracts, grants, or other funding by the City and County of outside research efforts, policymakers and decisionmakers within City government, and their staffs, can learn and benefit from the expertise, perspective, and insights that others can bring to this issue.

11. The City and County supports and encourages advertising and promotion of music and cultural events and venues, such as street fairs, nightlife, dance clubs, music halls, and other performance and entertainment venues and cultural events. These advertising and promotion efforts should include not merely advertising and promotion by officers, boards, commissions, and departments of the City and County, but also advertising and promotion by persons or entities outside of City government who may be specially capable of reaching diverse or specialized audiences, including diverse communities in San Francisco, visitors from the greater San Francisco Bay Area, tourists, business visitors, and convention attendees. Through contracts, grants, or other funding by the City and County in support of such advertising and promotion efforts, music and cultural events and venues in San Francisco can be sustained and strengthened.

12. It is the policy of the City and County to have a system of coordinated policy development, event planning, and permitting for music, culture, nightlife, performance, entertainment, special events, and entertainment establishments. To facilitate this goal, the Entertainment Commission shall coordinate these policy development, event planning, and permitting functions. All City officers, boards, commissions, and departments shall cooperate with and assist the Entertainment Commission in these efforts.

The City and County is committed to employing modern technologies to provide for more economical and expeditious processing of entertainment-related permits, as defined by ordinance, and other permits or licenses that must be granted or determinations that must be made for a music or cultural event or other entertainment event to take place. To that end, no

later than March 1, 2009, the Executive Director of the Entertainment Commission shall convene a working group including at least one representative of the Planning Department, Recreation and Park Department, Port, Police Department, Fire Department, Building Inspection Department, Department of Public Health, Department of Telecommunications and Information Services, Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT), and any other City department or office designated by the Executive Director. The working group shall develop policies and procedures for the creation of an on-line system for entertainment-related permits, as defined by ordinance, and other permits or licenses that must be granted or determinations that must be made for a music or cultural event or other entertainment event to take place. The goal of this working group shall be to develop a plan for an on-line system that simplifies and expedites the permit process with features such as but not limited to on-line application, payment, and permit tracking, and reduction or elimination of paper use. The Department of Telecommunications and Information Services shall provide full assistance in developing this proposal. The City and County may contract with an outside consultant or consultants to facilitate this proposal. The Entertainment Commission shall hold at least one public hearing regarding this proposal no later than December 1, 2009 in order for the proposal to be fully considered during negotiations and deliberations pertaining to the budget for the fiscal year that commences on July 1, 2010.

Notwithstanding any other provision of this Charter, and to the extent permitted by state law, beginning January 1, 2010, any new criteria including criteria for fees adopted by a City officer, board, commission, or department pertaining to the issuance of an entertainment-related permit, as defined by ordinance, or other permit or license that must be granted or determination that must be made for a music or cultural event or other entertainment event to take place, shall be subject to a hearing at the Entertainment Commission prior to its adoption.

(b) Revision of City Codes to Implement Music and Culture Sustainability Policy. By no later than July 1, 2010, each of the following City bodies shall submit to the Board of

Supervisors a proposal for revising City Code provisions to implement the music and culture sustainability policy described in subsection (a): Planning Commission; Recreation and Park Commission; Port Commission; Police Commission; Fire Commission; Building Inspection Commission; Municipal Transportation Authority; Health Commission; Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT); and any other City board, commission, or department not under the jurisdiction of a board or commission, that is designated by the Entertainment Commission.

Before submitting its proposal to the Board of Supervisors, each of these City bodies shall seek input on its proposal from the Entertainment Commission and/or Entertainment Commission staff, and may seek input from other officials, boards, commissions, and departments. The Entertainment Commission shall hold a hearing on each body's proposal and shall make findings and recommendations related thereto that are transmitted to the body before the body submits its proposal to the Board of Supervisors. The Entertainment Commission's hearing of these proposals may occur in one comprehensive hearing, or in the Entertainment Commission's discretion may be split into two or more hearings.

If any of the aforementioned City bodies does not submit its proposal to the Board of Supervisors by July 1, 2010, the Entertainment Commission shall have discretion to submit its own proposal or proposals to the Board of Supervisors. Upon receipt of each body's proposal, including any proposal made by the Entertainment Commission in accordance with the foregoing sentence, the Board of Supervisors or a committee thereof shall hold a hearing on the proposal within 90 days of receipt of the proposal. The President of the Board of Supervisors or the committee chair may extend this 90-day deadline for up to an additional 30 days if, in the judgment of the President or the chair, considerations of Board or committee efficiency warrant the extension. Subject to the time limits prescribed in the previous two sentences, the Board or committee hearing of these proposals may occur in one comprehensive hearing, or in the President's or chair's discretion may be split into two or more hearings.

(c) Incorporation of Music and Culture Sustainability Policy Into General Plan. To the extent they relate to the future physical development of the City and County, the principles contained in the music and culture sustainability policy described in subsection (a) shall be incorporated into the General Plan of the City and County, which shall elaborate on and implement those principles. They may be incorporated as a distinct element of the General Plan, as part of one or more existing elements or other features of the General Plan, or as some combination of those approaches.

By no later than July 1, 2011, the Planning Commission shall submit to the Board of Supervisors its proposal for amending the General Plan to incorporate the principles contained in the music and culture sustainability policy. This deadline shall be extended for six months upon a written determination by the Director of City Planning during the 30 days prior to the deadline stating and explaining why it is not feasible to meet the deadline. Subsequent extensions of the deadline shall occur at six-month intervals upon a written determination by the Director of City Planning during the 30 days prior to the deadline stating and explaining why it is not feasible to meet the deadline. Any written determination extending the deadline for the Planning Commission to submit its proposal to the Board of Supervisors shall be transmitted to the Board of Supervisors, Planning Commission, and Entertainment Commission.

The Planning Department shall begin its work on the proposal for amending the General Plan by no later than March 1, 2009. In developing the proposal, the Planning Department (and Planning Commission, to the extent it is involved) shall work on an ongoing and collaborative basis with Entertainment Commission staff (and the Entertainment Commission, to the extent it is involved). The Entertainment Commission shall hold one or more hearings on the incorporation of the music and culture sustainability policy into the General Plan and shall make findings and recommendations related thereto that are transmitted to the Planning Commission before submission of the Planning Commission's proposal to the Board of Supervisors; provided, however, that the Planning Commission may submit its proposal to the Board of Supervisors

after 60 days have elapsed from its transmittal of the proposal to the Entertainment Commission if the Entertainment Commission has not held a hearing on the proposal or has not transmitted findings and recommendations related thereto to the Planning Commission. This paragraph shall not alter any obligation of the Planning Commission under the provisions of Section 4.105 concerning the General Plan.

Upon receipt by the Board of Supervisors of the Planning Commission's proposal to amend the General Plan to incorporate the principles contained in the music and culture sustainability policy, the Board's consideration of the proposal shall be governed by the provisions of Section 4.105 concerning the General Plan.

Any subsequent proposed amendment to the General Plan that further elaborates on and implements the principles contained in the music and culture sustainability policy described in subsection (a) shall be developed by the Planning Department (and Planning Commission, to the extent it is involved) on a collaborative basis with Entertainment Commission staff (and the Entertainment Commission, to the extent it is involved) and submitted by the Planning Commission to the Board of Supervisors, and considered by the Board of Supervisors in accordance with the provisions of Section 4.105 concerning the General Plan; provided, however, that any such amendment shall be first submitted to and reviewed by the Entertainment Commission, which shall make findings and recommendations related thereto that are transmitted to the Planning Commission before the Planning Commission's submission of the amendment to the Board of Supervisors; provided further that the Planning Commission may submit its proposal to the Board of Supervisors after 60 days have elapsed from its transmittal of the proposed amendment to the Entertainment Commission if the Entertainment Commission has not held a hearing on the amendment or has not transmitted findings and recommendations related thereto to the Planning Commission. This paragraph shall not alter any obligation of the Planning Commission under the provisions of Section 4.105 concerning the General Plan.

(d) Annual Hearing on Further Revision of City Codes or Amendment of General Plan. Beginning with calendar year 2012, the Executive Director of the Entertainment Commission or his or her designee and the Director of City Planning or his or her designee shall hold at least one joint public hearing per year to consider (i) whether any City Codes should be further revised to implement the principles contained in the music and culture sustainability policy described in subsection (a) and (ii) whether the General Plan should be further amended to implement the principles contained in that policy. The Executive Director of the Entertainment Commission or his or her designee and the Director of City Planning or his or her designee shall report on the hearing to their respective commissions and in their discretion shall make recommendations to their respective commissions for further revisions of City Codes and further amendments to the General Plan that would implement the principles contained in the music and culture sustainability policy.

SEC. 4.106. BOARD OF APPEALS

(a) The Board of Appeals shall consist of five members nominated and appointed pursuant to this section. Three of the members shall be nominated by the Mayor, and two of the members shall be appointed by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments. Vacancies shall be filled by the appointing officer. Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and two members shall initially service four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Board of Appeals who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the three members appointed by the Mayor and the two members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The clerk of the Board of Supervisors shall determine by lot which two of the three Mayoral appointees shall serve an initial two-year term, and which one of the two appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Board shall appoint and may remove an executive secretary, who shall serve as department head.

(b) The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit, except for a permit or license under the jurisdiction of the Recreation and Park Commission or Department, or the Port Commission, or a building or demolition permit for a project that has received a permit or license pursuant to a conditional use authorization.

(c) Notwithstanding subsection (b), the Board shall hear and determine appeals from a denial of a license or permit under the jurisdiction of the Recreation and Park Commission if the license or permit is an entertainment-related permit, as defined by ordinance, or a license or permit that must be granted for a music or cultural event or other entertainment event to take place. A permit or license applicant is not required to submit an appeal to the Board pursuant to this subsection in order to seek judicial review of the decision of the Recreation and Park

Commission. The filing of an appeal pursuant to this subsection shall not stay the decision of the Recreation and Park Commission. The Board shall hear and decide an appeal filed pursuant to this subsection at its next scheduled meeting consistent with notice requirements imposed by state and local open government laws, unless the permit or license applicant agrees to a later hearing date. No rehearing of such appeals shall be allowed. To the extent reasonably within its control, the Recreation and Park Commission shall issue its decision on the permit or license application to provide sufficient time for an appeal to the Board.

~~(e)~~ (d) The Board of Appeals shall hear and determine appeals:

1. Where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the Board of Supervisors creating zoning districts or regulating the use of property in the City and County; or

2. From the rulings, decisions and determinations of the Zoning Administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof. Upon the hearing of such appeals, the Board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determinations as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrator by this Charter or by ordinance.

~~(d)~~ (e) After a hearing and any necessary investigation, the Board may concur in the action of the department involved, or by the affirmative vote of four members (or if a vacancy exists, by a vote of three members) overrule the action of the Department.

Where the Board exercises its authority to modify or overrule the action of a department, the Board shall state in summary its reasons in writing.

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

By:

PAUL ZAREFSKY
Deputy City Attorney