

File No. 101190

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee PUBLIC SAFETY

Date 11/15/10

Board of Supervisors Meeting

Date _____

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| ☐ | ☐ | Motion |
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OTHER

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Completed by: Gail Johnson

Date 11/10/10

Completed by: _____

Date _____

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[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: Additions are single-underline italics Times New Roman;
deletions are ~~strikethrough italics Times New Roman~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

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

ARTICLE 15.7: EVENT PROMOTERS

Sec. 1075.1. Definition of Event Promoter.

Sec. 1075.1.1. Other Definitions.

Sec. 1075.2. Event Promoter Registration Required.

Sec. 1075.2.1. Submission of Registration Information.

Sec. 1075.2.2. Online Registration and Posting.

Sec. 1075.2.3. Registration Receipt.

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; if an Event Promoter is uncertain whether the Event is of a bona fide social character, the
6 Event Promoter shall inquire of the Director in advance of the Event;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **SEC.1075.1.1. OTHER DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (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 **SEC. 1075.2.2. ONLINE REGISTRATION AND POSTING.**

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

24 (b) All completed forms shall be publicly available online on the Commission's website or
25 such other website as the Director, in consultation with the Department of Technology, shall determine.

1 Any completed forms submitted in hard copy to the Director shall be placed online by the Director with
2 the other completed forms submitted online. In lieu of the requirement that completed forms be posted
3 online, the Director may post online a registry of Registrants containing the information submitted
4 under Sections 1075.2.1(b)(1) and (2), and such other information submitted under Sections
5 1075.2.1(b)(3)-(9) as the Director chooses to include in the registry.

6 (c) The Director shall make a public announcement when the online registration system
7 described in subsections (a) and (b) above become operational. The Director's announcement shall be
8 made by posting a prominent notice on the Commission's website; by mailing or emailing the notice to
9 all Event Promoters for which the Director has contact information; by mailing or emailing the notice
10 to all Permittees and requesting that they forward the notice to Event Promoters; and, in the Director's
11 discretion, by mailing or emailing the notice to trade associations, if any, connected to Event
12 Promoters. The Director may take other measures, in the Director's discretion, to publicize the online
13 registration system. The Director's failure to comply with this subsection (c) shall not invalidate this
14 Article or affect its operative date.

15 **SEC. 1075.2.3. REGISTRATION RECEIPT.**

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

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

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

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

1 (c) For a Registrant that is a corporation, a change of ownership occurs when (i) a Person
2 who, at the time of the Registrant's submitting information to the Director under Section 1075.2.1, did
3 not own or control more than 50% of the shares of stock in the corporation, acquires or gains control
4 over more than 50% of the shares, or (ii) Persons who, at the time of the Registrant's submitting
5 information to the Director under Section 1075.2.1, did not cumulatively own or control more than
6 50% of the shares of stock in the corporation, cumulatively acquire or gain control over more than
7 50% of the shares, provided that each of those Persons has acquired or gained control over at least
8 10% of those shares.

9 (d) For a Registrant that is a partnership, a change of ownership occurs when (i) a Person
10 who, at the time of the Registrant's submitting information to the Director under Section 1075.2.1, did
11 not own or control more than 50% of the partnership or its assets, gains ownership or control of more
12 than 50% of the partnership or its assets, or (ii) Persons who, at the time of the Registrant's submitting
13 information to the Director under Section 1075.2.1, did not cumulatively own or control more than
14 50% of the partnership or its assets, cumulatively gain ownership or control of more than 50% of the
15 partnership or its assets, provided that each of those Persons has gained ownership or control over at
16 least 10% of the partnership or its assets.

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

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

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

23 (b) A Permittee's compliance with this Article; and
24
25

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

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

5 A Permittee may not have a Person act as an Event Promoter at or in connection with an Event
6 at a Place of Entertainment, Extended-Hours Premises, location of a One Time Event, or Dance Hall
7 unless the Event Promoter is a Registrant. For purposes of this requirement, the Permittee may
8 conclude that an Event Promoter is a Registrant if the Event Promoter is listed online in the system
9 described in Section 1075.2.2(b). In circumstances where the Permittee does not have access to the
10 online system, or where a Registrant is not included in the online system due to the City's delay, failure,
11 or error, the Permittee may conclude that the Event Promoter is a Registrant based on (1) the Event
12 Promoter's possession of a valid Registration Receipt and (2) confirmation from the Director that the
13 Event Promoter is a Registrant.

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

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

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

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

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

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

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

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

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

18 (b) To provide the Event Promoter an opportunity to appeal, the Director's Order shall not
19 take effect for ten City business days from the date the Order issues. Any Event Promoter directed to
20 comply with the Director's Order may appeal the Director's Order within ten City business days of the
21 date that the Order issues by filing a written request for review with the Secretary of the Commission.
22 The Event Promoter shall not be required to comply with the Director's Order pending the
23 Commission's action on the matter. If the Event Promoter withdraws the appeal, the Director's Order
24 shall take effect immediately upon the withdrawal of the appeal or upon the effective date of the
25 Director's Order, whichever is later.

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

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

4 (a) An Order imposed by the Director under Section 1075.5 may, at the Director's
5 discretion, include an expiration date. An Order imposed by the Commission under Section
6 1075.5.1(c) that modifies the Director's Order may, at the Commission's discretion, include an
7 expiration date.

8 (b) An Event Promoter who is the subject of an Order imposed by the Director under
9 Section 1075.5 may at any time request that the Director lift the Order or shorten its duration. The
10 Director's decision in response to the request shall not be appealable to the Commission. An Event
11 Promoter who is the subject of an Order imposed by the Commission under Section 1075.5.1(c) that
12 modifies the Director's Order may at any time request that the Commission lift the Order or shorten its
13 duration. The Commission may make a decision in response to the request, or delegate the decision to
14 the Director.

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

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

20 (b) When using an Event Promoter in connection with an Event, Permittees have an
21 obligation to ascertain whether there is an Order in effect, imposed by the Director under Section
22 1075.5 or by the Commission under Section 1075.5.1, against an Event Promoter that requires
23 enhanced Security Plan requirements for Events to be Held by the Event Promoter or requires the
24 Event Promoter to have commercial general liability insurance in connection with an Event. If a
25 Permittee contracts with or otherwise engages the services of an Event Promoter, the Permittee (in

1 addition to the Event Promoter) has a duty to proceed with the Event in a manner that is consistent with
2 the requirements of the Director's or Commission's Order.

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

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

7 (b) An Event Promoter may not contract with or otherwise engage another Event Promoter
8 to Hold the same Event unless the other Event Promoter ("Other Event Promoter") is a Registrant. For
9 purposes of this requirement, the Event Promoter may conclude that the Other Event Promoter is a
10 Registrant if the Other Event Promoter is listed online in the system described in Section 1075.2.2(b).
11 In circumstances where the Event Promoter does not have access to the online system, or where the
12 Other Event Promoter is not included in the online system due to the City's delay, failure, or error, the
13 Event Promoter may conclude that the Other Event Promoter is a Registrant based on (1) the Other
14 Event Promoter's possession of a valid Registration Receipt and (2) confirmation from the Director
15 that the Other Event Promoter is a Registrant.

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

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

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

22 Any Event Promoter who violates Sections 1075.2, 1075.2.1, 1075.2.4, 1075.3, 1075.6, or an
23 Order imposed under Sections 1075.5 or 1075.5.1 shall be subject to administrative penalties as set
24 forth in Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative
25 Fines," which is hereby incorporated in its entirety and which shall govern the amount of fees and the

1 procedure for imposition, enforcement, collection, and administrative review of administrative
2 citations. The Director shall impose fines for violation of the aforementioned Sections or Orders as set
3 forth in Section 100.5(a) of the Administrative Code. Each day during which a Section or Order is
4 violated shall be considered a separate violation.

5 **SEC. 1075.8. SANCTIONS FOR PERMITTEES.**

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

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

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

12 (c) Criminal penalties under Sections 1027, 1060.25(a), and 1070.24(a) of the Police Code;
13 and

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

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

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

23 (a) This Article does not limit the duties and responsibilities of Permittees, or the sanctions
24 and penalties that may be imposed against Permittees under Articles 15.1 and 15.2 of the Police Code.
25 Imposition of an Order against an Event Promoter under Section 1075.5 or 1075.5.1 does not absolve a

1 Permittee of responsibility for the safety problems that gave rise to the Order against the Event
2 Promoter.

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

5 **SEC. 1075.10. ADOPTION OF REGULATIONS.**

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

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

8 In undertaking the enforcement of this Article, the City is assuming an undertaking only to
9 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
10 obligation for breach of which it is liable in money damages to any person who claims that such breach
11 proximately caused injury.

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

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

15 **SEC. 1075.13. SEVERABILITY.**

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

23 **SEC. 1075.14. OPERATIVE DATE.**

24 When the online registration system described in Sections 1075.2.2(a) and (b) is operational,
25 the Director shall post a notice to that effect on the Commission's website and shall file a notice to that

1 effect with the Clerk of the Board of Supervisors. This Article shall become operative on its effective
2 date if 30 days have elapsed since the aforementioned posting of the website notice and filing of the
3 notice with the Clerk. Otherwise, this Article shall become operative after its effective date once 30
4 days have elapsed since the posting of the website notice and filing of the notice with the Clerk.

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

7
8 By: Paul Zarefsky
9 PAUL ZAREFSKY
Deputy City Attorney

LEGISLATIVE DIGEST

[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.

Existing Law

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

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 six 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.
- The Event is not a fundraiser for a charitable, political, religious, or similar purpose.
- The Event is not held at certain City buildings.
- The Event is not held at a recreational or social hall at a house of worship.

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 Event Promoter 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

One of two conditions must be met for the Director to issue an Order against an Event Promoter. The Event Promoter has promoted one or more Events at which the Director determines that

- 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.

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

Substitute Legislation

This ordinance is substitute legislation that fine-tunes the definition of "Event" as it appeared in the original ordinance introduced at the September 21, 2010 Board meeting. The ordinance now includes Events occurring at outdoor venues, if there is an anticipated crowd of 100 or more at any time; Events where alcohol is not served; and Events some portion of which occurs as early as 10:00 p.m. Events occurring at City Hall have been excluded from the definition. If there is a question as to whether an Event is not of a bona fide social character or is not a bona fide fundraiser, the ordinance now provides that the Event Promoter ask the Director in advance of the Event.