

1 [Increasing cap on reimbursement for police costs at street fairs serving alcohol.]

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3 **Ordinance amending Municipal Traffic Code, Article 21, Section 806 to increase cap on**
4 **reimbursement for police costs at street fairs where alcohol is served and making**
5 **environmental findings.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Traffic Code is hereby amended by amending Section
11 806, to read as follows:

12 Sec. 806. TEMPORARY USE OF STREETS FOR STREET FAIRS.

13 (a) Definitions. For the purpose of this Section, the following definitions shall
14 apply:

15 (1) "Director" means the Director of the Department of Parking and Traffic or
16 his or her designee.

17 (2) To "issue" a permit is to deliver to an applicant for a street fair permit
18 written permission to sponsor or hold a street fair at a specified date and location.

19 (3) "Sponsor" means that organization responsible for organizing a street fair
20 and authorized to represent the street fair before City agencies and officials.

21 (4) A "street fair" means a social or community event, not including an
22 athletic event or parade, in which any group of persons convene to celebrate their community
23 or neighborhood on any street in the City and County of San Francisco which event obstructs
24 or interferes with the normal flow of vehicular traffic.

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1 (b) Applying for Temporary Use of Street for Street Fair. Notwithstanding
2 any other provisions of the Administrative Code of the City and County of San Francisco, the
3 regulation of street fairs, including the processes for obtaining permits from the City for
4 conducting these street fairs and the payment of associated fees to the City, shall be
5 governed by Section 806. In order to provide for the safe, orderly and cost-effective conduct
6 of street fairs, any organization seeking permission for the temporary use of a street for the
7 purpose of conducting a street fair shall file an application with the Director no later than 90
8 days prior to the proposed date for the event. Applications shall be submitted on forms
9 prepared by the Director after conferring with the appropriate representatives from the Police
10 Department, Fire Department, Department of Public Health, the Municipal Railway, the
11 Department of Public Works and the Department of Parking and Traffic. At the time of filing an
12 application under this Section, the sponsoring organization shall also file a \$80 application
13 fee.

14 (c) Timeliness of Applications. No person submitting an application after the
15 deadlines set forth in this ordinance shall be granted permission to conduct a street fair in the
16 corresponding period unless the person demonstrates to the satisfaction of the Director that
17 the failure to submit a timely application was justified by extraordinary circumstances;
18 provided, however, that in no event shall an applicant be permitted to file an application less
19 than 60 days prior to the proposed date for the event. A late fee of \$80 shall be assessed for
20 untimely filed applications.

21 (d) Review of Application.

22 (1) Upon receiving an application for permission for the temporary use of a
23 street for purposes of conducting a street fair, the Director shall review the application to
24 determine whether the information required in the application has been provided. If the
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1 Director determines that the applicant has failed to provide the information required, the
2 Director shall, within five business days of receiving the application, notify the applicant of
3 what additional information is required. If the applicant fails to provide the additional
4 information required within five business days of notification by the Director, the applicant's
5 application shall be deemed to be untimely filed; provided, however, that upon good cause
6 shown the Director may extend this five-day period. Except as provided in Subsection (2) of
7 this Section, the Director shall transmit the completed application to ISCOTT.

8 (2) If, upon reviewing the application, the Director determines that the
9 proposed street fair will be contained within one block in such a manner that no intersections
10 will be closed, and that the proposed street fair will not require the rerouting of Municipal
11 Railway vehicles, the Director may grant the street fair permit without referring the application
12 to ISCOTT, provided however that the Director shall transmit copies of the applications to the
13 constituent members of ISCOTT for informational purposes. The Director will calculate the
14 fee to be charged to the sponsor using the same schedule and in the same manner as
15 prescribed in Subsection (f) of this Section. If such a street fair will include the sale of food or
16 beverages, the appropriate permits shall be obtained from the Department of Public Health no
17 later than 14 days prior to the date of the event. If such a street fair will include the use of
18 propane or butane (liquefied petroleum gas), open flames, pyrotechnics and fireworks, or tent
19 or membrane structure, the appropriate permits shall be obtained from the Fire Department no
20 later than 10 days prior to the date of the event.

21 (e) Review by ISCOTT; Recommendation. Except as provided in Subsection
22 (d)(2) of this Section, no later than 60 days prior to the proposed date of the street fair,
23 ISCOTT shall review the application and shall recommend that the Director grant, deny, or
24 grant with conditions the application for a permit. The Director may accept or reject the
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1 recommendation of ISCOTT, and may grant, deny or grant with conditions the application for
2 a permit. Upon granting permission to conduct a street fair, the Director shall cause all
3 necessary permits to be issued to the sponsor of the street fair. If the Director denies
4 permission to conduct the street fair, the Director shall state in writing his or her reasons for
5 the denial.

6 (f) Fee. No later than 60 days prior to the proposed date of the street fair
7 and in consultation with other City departments, ISCOTT shall determine the fee to be
8 charged for the permit pursuant to the schedule below. No other fee for conducting a street
9 fair shall be required or assessed. All fees paid by the sponsors for street fair permits shall be
10 deposited in the general fund. The fee shall be based on the actual costs to the City of
11 temporarily closing the street for the street fair, pursuant to the following fee schedule:

12 (1) Fire Department:

13 (A) Application fee: \$129.00

14 (B) Inspection fee—Food vendors using propane, butane, charcoal
15 briquettes or open flame:

16 (i) First Day of Street Fair:

17 1 to 10 food vendors: \$163.28

18 11 to 20 food vendors: \$326.56

19 21 to 30 food vendors: \$489.84

20 31 food vendors and over: \$652.92

21 (ii) Each Consecutive Day of Street Fair:

22 1 to 20 food vendors: \$163.28

23 21 food vendors and over: \$326.56

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1 (C) LPG heaters: \$163.28 and \$40.82 for each hour after four hours
2 of service. Whenever an LPG heater is used in a tent where a public assembly event is held,
3 one inspector shall be on duty during the duration of the operation of the heater, pursuant to
4 Section 2501.18.1 of the Municipal Fire Code.

5 (D) Tents or membrane structures
6 Permit fee: \$146.00

7 (E) Fireworks or pyrotechnics
8 Permit fee: \$90.00

9 (2) Department of Public Health:
10 Application and permit fees payable to the Department of Public Health
11 under this section shall be the same as those charged for temporary food permits for special
12 events as governed by Section 249.11 of the Business and Tax Regulations Code.

13 (3) Municipal Railway fee:
14 \$6.00 per electrically powered vehicle hour per line affected, where
15 "vehicle hour" means the number of hours each coach on a line is in operation during the day
16 of the event.

17 (4) (A) Street fairs where alcoholic beverages are served:
18 100 percent of the projected Police Department costs incurred by reason
19 of the street fair, subject to the following caps:

20	ATTENDANCE	MAXIMUM FEE
21	0 to 100,000 patrons	\$5,000 <u>\$10,000</u>
22	100,001 to 250,000 patrons	\$10,000 <u>20,000</u>
23	More than 250,000 patrons	\$20,000 <u>40,000</u>

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1 The Police Department, working with the sponsor, shall provide an estimate of
2 attendance for the event for purposes of determining the applicable cap.

3 (B) Street fairs where alcoholic beverages are not served:

4 If the Director grants the application for a permit, he or she shall transmit to the
5 sponsor an invoice for the fee. The sponsor of the street fair shall make full payment of the
6 fee no later than 10 days prior to the date of the event.

7 (g) Insurance. Street fair sponsors shall be required to file with the Director
8 proof of the insurance required by Section 807(l) no later than the Thursday before the date of
9 the street fair.

10 (h) Conditions. In addition to any other conditions imposed by the Director,
11 any street fair conducted pursuant to this Article shall be subject to the conditions set forth in
12 Section 807.

13 (i) Appeals. Any appeal from the denial of the issuance of a permit to
14 conduct a street fair, from the imposition of conditions on the issuance of a permit, or the
15 determination or refund of fees shall be to the Board of Supervisors. Such appeal shall be
16 made by filing with the Clerk of the Board, on a form provided by the Clerk of the Board, within
17 10 days of the Director's approval or disapproval or the determination or refund of fees. The
18 Board may establish a fee to be imposed upon the filing of any such appeal. Upon receipt,
19 the Clerk shall set a time and place for hearing such appeal by the Board of Supervisors,
20 which shall be at its next regular meeting in conformance with public notice requirements.

21 At the appeal hearing, the appellant and Director shall have an opportunity to
22 present oral testimony and written materials in support of their positions. Upon hearing the
23 appeal, and after any further investigation which the Board may request, the Board may
24 affirm, reverse, or modify the Director's decision on the issue appealed.

1 (j) Notice. The Director shall transmit copies of the granting of permission to
2 conduct a street fair to the Chief of Police, the Chief of the Fire Department, the General
3 Manager of the Municipal Railway, the Director of Public Works, the Director of the
4 Environmental Health Section of the Department of Public Health and the Superintendent of
5 Emergency Hospital Service of the Department of Public Health.

6 (k) Authorization to Sell Goods; Unauthorized Sales. The sponsor of a street
7 fair shall determine which individuals or organizations may sell goods or merchandise on a
8 street that has been closed for the purposes of conducting a street fair, provided, however,
9 that such authorization shall not be withheld on the basis of the race, sex, religion, creed,
10 national origin or sexual orientation of the person seeking such authorization. Individuals
11 seeking to sell goods or merchandise in a street that has been closed for the purpose of a
12 street fair without the authorization of a sponsor may be cited for violating San Francisco
13 Police Code Section 869 (peddling without a permit). Nothing in this Section shall be
14 construed to deprive the Department of Public Health of its authority to determine that foods
15 or beverages may be sold.

16 (l) Refund of Fees. If for any reason a sponsor cancels a proposed street
17 fair, the sponsor shall be entitled to a refund of that portion of the fees paid, other than
18 application fees, representing the costs saved by City departments by reason of the
19 cancellation of the street fair.

20 (m) Annual Reports. No later than December 1st of each year, the Chief of
21 Police and the Director or their designees shall provide to the Board of Supervisors written
22 reports setting forth in detail the Police Department and Parking and Traffic Department costs,
23 respectively, associated with street fairs for that year.

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1 (n) City Undertaking Limited to Promotion of General Welfare. In
2 undertaking the adoption and enforcement of this Section, the City is assuming an
3 undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its
4 officers or employees, an obligation for breach of which the City is liable in money damages to
5 any person who claims that such breach proximately caused injury.

6 (o) Annual Adjustment of Fees. Beginning with fiscal year 2003-2004, fees
7 set in this Section, including the caps on fees for police services, may be adjusted each year,
8 without further action by the Board of Supervisors, to reflect changes in the relevant
9 Consumer Price Index, as determined by the Controller.

10 No later than April 15th of each year, the officer, department, or agency
11 administering the fees shall submit its current fee schedule to the Controller, who shall apply
12 the price index adjustment to produce a new fee schedule for the following year.

13 No later than May 15th of each year, the Controller shall file a report with the
14 Board of Supervisors reporting the new fee schedule and certifying that: (a) the fees produce
15 sufficient revenue to support the costs of providing the services for which each fee is
16 assessed, and (b) the fees do not produce revenue which is significantly more than the costs
17 of providing the services for which each fee is assessed.

18 (p) Severability. If any part of this Section, or the application thereof, is held
19 to be invalid, the remainder of this ordinance shall not be affected there-by, and this ordinance
20 shall otherwise continue in full force and effect. To this end, the provisions of this ordinance,
21 and each of them, is severable.

22 Section 2. The Planning Department has determined that the actions contemplated in
23 this Ordinance are in compliance with the California Environmental Quality Act (California
24 Public Resources Code sections 21000 et seq.) . Said determination is on file with the Clerk
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1 of the Board of Supervisors in File No. _____ and is incorporated herein by
2 reference.

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

6 By: _____
7 Margaret Baumgartner
8 Deputy City Attorney

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