

**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.