

1 [Various Codes - Greater Downtown Community Benefit District Master Permitting for
2 Entertainment Activation Program]

3 **Ordinance amending the Administrative Code to establish the Greater Downtown**
4 **Community Benefit District Master Permitting for Entertainment Activation Program**
5 **(“Greater Downtown Activation Program”)** to coordinate and streamline permitting for
6 **Community Benefit District-sponsored public events taking place at certain locations in**
7 **the Greater Downtown Area, and to designate Greater Downtown Activation Program**
8 **locations as Entertainment Zones to allow the off-site consumption of alcoholic**
9 **beverages purchased at businesses within the Entertainment Zone during events;**
10 **amending the Public Works Code to establish the requirements for the Greater**
11 **Downtown Activation Program; amending the Fire Code to establish a new permit type**
12 **for the Greater Downtown Activation Program; amending the Police Code to exempt**
13 **Greater Downtown Activation Program events from Amplified Sound, Limited Live**
14 **Performance, and Entertainment Permit requirements; affirming the Planning**
15 **Department’s determination under the California Environmental Quality Act; and**
16 **directing the Clerk of the Board of Supervisors to forward this ordinance to the**
17 **California Building Standards Commission upon final passage.**

18 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
21 **Board amendment additions** are in double-underlined Arial font.
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.
23 **Asterisks (* * * *)** indicate the omission of unchanged Code
24 subsections or parts of tables.

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

1 Section 1. General and Environmental Findings.

2 (a) Through innovative approaches to transforming the public realm, San Francisco
3 has demonstrated nationally recognized and innovative leadership with new and unique types
4 of public spaces.

5 (b) The COVID-19 pandemic redefined the notion of public space in American cities,
6 including San Francisco, emphasizing the importance of safe outdoor spaces to socialize,
7 exercise, and engage in cultural activities. In the Greater Downtown area of San Francisco,
8 the impacts of the COVID-19 pandemic linger, as the economic core of the City struggles to
9 recover and has one of the lowest return-to-office rates in the nation.

10 (c) In June 2014, the Board of Supervisors enacted the City Plaza Program to allow
11 private, nonprofit, and neighborhood groups to combine their efforts to provide long-term
12 activation and/or maintenance to some plazas; to improve the City's ability to provide more
13 safe, clean, and active City-owned open space than possible with existing City resources; to
14 adopt innovative approaches to activate and manage plazas in the urban public realm and
15 share these nationwide; and to facilitate inter-departmental cooperation to ensure the
16 continued vibrance of San Francisco's neighborhoods.

17 (d) The Board of Supervisors approves the formation of property and business
18 improvement districts, often referred to as "Community Benefit Districts," under the Property
19 and Business Improvement District Law of 1994 (California Streets and Highways Code
20 Section 36600 et seq.) and Article 15 of the San Francisco Business and Tax Regulations
21 Code. To form a Community Benefit District, property or business owners within a
22 geographical area petition the Board of Supervisors to levy assessments within the area to
23 fund improvements, maintenance, and activities consistent with a management plan that is
24 approved by the City.

1 (e) Once a Community Benefit District is formed, the City then contracts with a
2 nonprofit owners' association consisting of property owners and business owners in the
3 district, to administer and implement the improvements, maintenance, and activities specified
4 in the management plan. The nonprofit must enter into a contract with the City; maintain
5 insurance acceptable to the City's Risk Manager, naming the City as an additional insured
6 party; indemnify the City; comply with all applicable federal, state, and local law and
7 regulations; continuously maintain their corporate nonprofit status; issue annual and mid-year
8 reports to the City documenting eligible expenditures, costs of providing and descriptions of its
9 improvements, maintenance, and activities; present annual reports to the Government Audit &
10 Oversight Committee of the Board of Supervisors; cooperate with the City in carrying out the
11 activities described in its management plan; conduct no fewer than one annual information
12 meeting; comply with both the Brown Act and Public Records Act; provide the City with
13 access to all corporation records; and abide by the City's standard contractual conditions.
14 The contract requirements meet or exceed the required qualifications and permit and license
15 terms for a plaza steward under the existing City Plaza Program.

16 (f) San Francisco's Community Benefit Districts make public spaces cleaner and
17 graffiti-free, welcoming, and safer; promote district businesses and attractions; engage in
18 economic development; draw tourism; host farmers' markets and community gardens; hold
19 events such as street fairs, music performances, and art installations; and enhance and
20 activate public spaces.

21 (g) The Greater Downtown area of San Francisco currently contains four Community
22 Benefit Districts ("CBDs"): the Union Square Business Improvement District (known as the
23 "Union Square Alliance"), the Downtown Community Benefit District (known as the "Downtown
24 SF Partnership"), the East Cut Community Benefit District, and the Yerba Buena Community
25 Benefit District (collectively, the "Greater Downtown CBDs"). These four districts encompass

1 distinct geographic areas within the Greater Downtown area and have produced and
2 published respective public realm or street life action plans adopted by their boards of
3 directors outlining strategies to create and activate new public spaces.

4 (h) An example of these public realm activations include the Union Square Alliance’s
5 Winter Walk, a pop-up holiday themed plaza on Stockton Street to attract people to Union
6 Square during the holidays. In addition, in the fall of 2022, the Office of Economic and
7 Workforce Development (“OEWD”) awarded the Downtown SF Partnership an economic
8 recovery grant to activate the Landing at Leidesdorff, at Commercial Street between Sansome
9 and Montgomery Streets. Due to the need to obtain permits from many City departments, the
10 opening of the Landing at Leidesdorff could not occur until July 2023.

11 (i) This ordinance is intended to improve the speed and efficiency with which the
12 Greater Downtown CBDs can activate public space and encourage more events, installations,
13 and engagement for the benefit of City residents and businesses.

14 (j) Under this ordinance, the City’s existing regulations and permit programs would
15 continue to offer an avenue for other event sponsors to access and hold events in the same
16 public spaces that the Greater Downtown CBDs may activate under this ordinance. The
17 Greater Downtown CBDs and other users would be eligible to hold events in these spaces on
18 a first-come-first-served basis. This ordinance provides a streamlined permitting process but
19 not a preference or priority for events sponsored by the Greater Downtown CBDs.

20 (k) Senate Bill 76 (2023) (The Entertainment Zones Act) authorizes San Francisco to
21 create “Entertainment Zones” in public spaces and aid in the recovery of brick-and-mortar
22 restaurants and bars by removing barriers to their participation in outdoor events like street
23 fairs and festivals. This ordinance would declare the designated Greater Downtown Activation
24 locations as “Entertainment Zones” under Senate Bill 76, which would enable brick-and-
25 mortar bars and restaurants to sell alcohol for off-premises consumption within the designated

1 activation area during events licensed by the California Department of Alcoholic Beverage
2 Control.

3 (l) The Planning Department has determined that the actions contemplated in this
4 ordinance comply with the California Environmental Quality Act (California Public Resources
5 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
6 Supervisors in File No. 240804 and is incorporated herein by reference. The Board affirms
7 this determination.

8
9 Section 2. Findings under California Health and Safety Code.

10 The Board of Supervisors hereby finds that the following local conditions apply to the
11 amendments to the San Francisco Fire Code enacted by this ordinance:

12 (a) The City and County of San Francisco is unique among California communities
13 with respect to local climatic, geological, topographical, and other conditions and the possible
14 causes and effects of fires. Among other things, (1) many streets and other public spaces are
15 narrow, located on or near hilly terrain, or otherwise spatially constrained, requiring special
16 safety considerations for outdoor events held in these spaces; (2) certain areas in San
17 Francisco are at increased risk of fire due to high density of buildings and a high proportion of
18 wood structures, with many buildings built up to the property lines; and (3) certain areas in
19 San Francisco experience higher winds, due to San Francisco's geography and climate,
20 which feature strong winds coming from the Pacific Ocean, which blow across the western
21 part of the City with generally shorter buildings before encountering taller buildings, which can
22 funnel these strong winds down to the street level. Because of the City's density combined
23 with potentially strong winds, fires at or close to outdoor events in San Francisco can be
24 especially devastating and present unique challenges to the Fire Department. These
25

1 conditions necessitate enhanced fire, structural, and other protections for outdoor events and
2 gatherings on City streets.

3 (b) To address fire and safety risk at a new category of ongoing and recurring outdoor
4 events in the Greater Downtown area, it is essential that the Fire Department review the site
5 plans and specific uses with higher fire risk for these events. The Fire Department has
6 determined that its operational needs require reviewing site plans and other related
7 operational permits for these events, regardless of the number of attendees anticipated at
8 such events, because the proposed locations are in densely populated areas on or near hilly
9 terrain and feature narrow streets that present challenging access issues, among other
10 potential life safety issues.

11 (c) California Health and Safety Code Sections 17958 and 17958.5 allow the City to
12 make changes or modifications in the requirements contained in the provisions published by
13 the California Building Standards Commission, including the California Fire Code, when those
14 changes or modifications are reasonably necessary because of local climatic, geological, or
15 topographical conditions. California Health and Safety Code Section 17958.7 provides that
16 before making any such changes or modifications, the governing body must make express
17 findings that such changes or modifications are reasonably necessary because of the
18 specified local conditions, and those findings shall be filed with the California Building
19 Standards Commission.

20 (d) Pursuant to the applicable California Health and Safety Code sections, the Board
21 of Supervisors finds and determines that the conditions described above constitute a general
22 summary of the most significant local conditions giving rise to the need for variance from the
23 California Fire Code and any other applicable provisions published by the California Building
24 Standards Commission with respect to a new permit type to address recurring outdoor
25 assembly events held at certain streets, plazas, and alleys in the Greater Downtown area of

1 San Francisco. Further, the Board of Supervisors finds and determines that the provisions in
2 this ordinance are reasonably necessary based on the local conditions in San Francisco, the
3 densest major city in California, and that these conditions justify restrictive standards
4 applicable to submitting the event site plans to the Fire Department regardless of event size,
5 and ensuring that the Fire Department maintains adequate access to narrow or crowded
6 outdoor assembly spaces.

7
8 Section 3. The Administrative Code is hereby amended by adding Chapter 94D,
9 consisting of Sections 94D.1 to 94D.5, to read as follows:

10 **CHAPTER 94D: GREATER DOWNTOWN COMMUNITY BENEFIT DISTRICT MASTER**
11 **PERMITTING FOR ENTERTAINMENT ACTIVATION PROGRAM**

12
13 **SEC. 94D.1. DEFINITIONS.**

14 “CBD” means Community Benefit District.

15 “CBD Nonprofit” means a nonprofit owners’ association of a Greater Downtown CBD that has
16 entered into a contract with the City to administer and implement the improvements, maintenance, and
17 activities specified in the CBD’s management plan.

18 “Downtown Activation Location” or “Activation Location” means the City-owned land located
19 on public right-of-way, including on streets and sidewalks, in the areas listed in Section 94D.3.

20 “Greater Downtown CBD” means the Union Square Business Improvement District, the
21 Downtown Community Benefit District, the East Cut Community Benefit District, the Yerba Buena
22 Community Benefit District, and any other property-based district that may be established pursuant to
23 Article 15 of the Business and Tax Regulations Code and the California Streets and Highways Code
24 Sections 36600 et seq. whose boundaries include one or more Activation Locations.

1 “Permit” or “Downtown Activation Permit” means a permit issued pursuant to this Chapter
2 94D and Public Works Code Section 795.

3 “Permittee” means a person that has been issued a Permit by the City for activities in the
4 Activation Location.

5
6 **SEC. 94D.2. POLICIES, OBJECTIVES, AND INTERAGENCY COORDINATION.**

7 (a) Department of Public Works and General Coordination of Program Activities. The
8 Department of Public Works (“Public Works”) shall be responsible for managing the Greater
9 Downtown Activation Program as described in this Chapter 94D. All applications for a Downtown
10 Activation Permit are subject to the review and approval of Public Works. Public Works may issue a
11 permit for a single Activation Location or multiple Activation Locations. Public Works may approve,
12 deny, or conditionally approve an application in accordance with the requirements of this Chapter and
13 as set forth in Public Works Code Section 795. Public Works shall be responsible for:

14 (1) determining the eligibility of the applicant and the proposed location(s);

15 (2) approving physical treatments or improvements proposed by the applicant;

16 (3) approving the applicant’s proposed program of events for the Activation Location;

17 (4) consulting with, and coordinating approvals from, additional City agencies such as
18 the Public Utilities Commission and the Fire Department;

19 (5) approving conditions regarding alcoholic beverages to be sold in any Entertainment
20 Zone designated pursuant to Administrative Code Chapter 94B;

21 (6) approving the Downtown Activation Permit along with the other City agencies with
22 jurisdiction over the proposed Activation Location;

23 (7) conducting all disability-access related reviews on behalf of the City; and

24 (8) issuing the Downtown Activation Permit.
25

1 **(b) No Additional Public Works Permits Required.** A CBD Nonprofit that obtains a Permit
2 shall not be required to obtain a street space occupancy permit, as described in Public Works Code
3 Section 724, a Shared Spaces Permit, as described in Administrative Code Chapter 94A, or a Street
4 Encroachment Permit, as described in Public Works Code Section 786.

5 **(c) SFMTA San Francisco Municipal Transportation Agency.** Any street closure
6 proposed by the CBD Nonprofit must comply with the Transportation Code, including be reviewed
7 and approved by the Interdepartmental Staff Committee on Traffic and Transportation (“ISCOTT”)
8 consistent with Transportation Code, Division I, Article 6, or by the San Francisco Municipal
9 Transportation Agency (“SFMTA”) Board of Directors consistent with Transportation Code,
10 Division II, Article 200, approval for temporary closures associated with Permits with a duration
11 of two years or less, or San Francisco Municipal Transportation Authority (“SFMTA”) Board
12 approval for long-term closures associated with Permits with a duration of over two years.

13 **(d) Entertainment Commission Review Not Required.** The CBD Nonprofit shall not be
14 required to obtain a Place of Entertainment Permit, Limited Live Performance Permit, or Fixed Place
15 Outdoor Amplified Sound Permit for entertainment-related activity that would ordinarily require such
16 permit or permits pursuant to Article 15.1 of the Police Code, provided that such activity is conducted
17 in accordance with a Permit issued pursuant to this Chapter 94D.

18 **(e) Fire Department.** Prior to receiving a Permit pursuant to this Chapter 94D, the Permittee
19 must obtain an Outdoor Assembly for Downtown Activations Permit from the Fire Department in
20 accordance with Fire Code Section 105.5.62 for all proposed locations, site plans, and events. In
21 addition, prior to the event, the Permittee shall obtain permits and approval from the Fire Department
22 for any regulated activities (e.g., use of combustibles for food preparation, installation of tents over 400
23 square feet) as required by the Fire Code. As set forth in the Fire Code, when more than one Fire
24 Department permit is required for the same applicant, the permits may be consolidated. Public Works
25 shall coordinate with the Fire Department to facilitate timely review prior to scheduled events.

1 **SEC. 94D.3. ELIGIBLE ACTIVATION LOCATIONS.**

2 *Downtown Activation Locations are limited to the following:*

3 *(a) “Annie Plaza” located on Annie Street, between Market Street and Stevenson Street;*

4 *(b) “Balance & Gold” located on Balance Street between Gold Street and Jackson Street and*
5 *Gold Street between Sansome Street and Montgomery Street;*

6 *(c) “Claude Lane” located on Claude Lane between Bush Street and Sutter Street;*

7 *(d) “Front Street” located on Front Street between California Street and Sacramento Street;*

8 *(e) “Harlan Place and Mark Lane” located on Harlan Place between its terminus east of*
9 *Stockton Street and on Mark Lane between Harlan Place and Bush Street;*

10 *(f) “Jessie Alleys” located on Jessie Street and Jessie West between Mission Street and Fifth*
11 *Street (“Jessie West”) and on Jessie Street and Jessie East between Mission Street and Fourth Street*
12 *(“Jessie East”);*

13 *(g) “Landing at Leidesdorff” located on Leidesdorff Street between Sacramento Street and*
14 *Clay Street and Commercial Street between Montgomery Street and Sansome Street;*

15 *(h) “Maiden Lane” located on Maiden Lane between Stockton Street and Kearny Street;*

16 *(i) “Minna Alley” located on Minna Street between Second Street and New Montgomery*
17 *Street;*

18 *(j) “Natoma” located on Natoma Street between Second Street and the southwestern corner of*
19 *the Salesforce Transit Center property; and*

20 *(k) “Second Street” located on Second Street between Market Street and Howard Street.*

21
22 **SEC. 94D.4. APPLICATION; PERMIT TERMS; ENFORCEMENT.**

23 *The application requirements, permits terms and conditions, and enforcement of Downtown*
24 *Activation Permits are set forth in Public Works Code Section 795.*

1 **SEC. 94D.5. FEES.**

2 (a) The Department of Public Works shall charge an application fee sufficient to recover actual
3 costs incurred by the Department on a time and materials basis, but in no event shall the fee charged
4 exceed \$750 per Activation Location. Payment of said fee shall be a condition of any approval to
5 operate an Activation Location.

6 (b) A CBD Nonprofit is not subject to the public right-of-way occupancy assessment fee as set
7 forth in Public Works Code Section 786.7.

8 (c) The Controller shall adjust fees each year, without further action by the Board of
9 Supervisors, up to an amount that reflects changes in the relevant Consumer Price Index, as
10 determined by the Controller.

11
12 Section 4. Chapter 94B of the Administrative Code is hereby amended by revising
13 Sections 94B.1, 94B.3, and 94B.4, to read as follows:

14 **SEC. 94B.1. DEFINITIONS.**

15 For the purposes of this Chapter 94B, the following definitions shall apply:

16 (a) "ABC" means the California Department of Alcoholic Beverage Control.

17 (b) "Entertainment Zone" has the meaning set forth in Section 23039.5 of the California
18 Business and Professions Code, as may be amended from time to time.

19 (c) "Entertainment Zone Event" means a special event permitted or licensed by ABC
20 that occurs within the boundaries of an Entertainment Zone established in accordance with
21 this Chapter 94B and within the hours permitted by this Chapter 94B and the Management
22 Plan or the Downtown Activation Permit issued pursuant to Administrative Code Chapter 94D for the
23 Entertainment Zone.

1 (d) "Management Plan" means a plan approved by the Office of Economic and
2 Workforce Development (OEWD) for the management and regulation of Entertainment Zone
3 Events.

4
5 **SECTION 94B.3. IMPLEMENTATION.**

6 (a) Within 90 days of the effective date of this Chapter 94B, OEWD shall issue rules
7 for the implementation of this Chapter. OEWD may revise these rules from time to time as it
8 deems appropriate.

9 (b) Within 90 days of the establishment or modification of an Entertainment Zone,
10 OEWD shall do the following:

11 (1) in consultation with the Police Department, provide the following information
12 to ABC, pursuant to Section 25690 of the California Business and Professions Code:

13 (A) A copy of the ordinance establishing or modifying the Entertainment
14 Zone;

15 (B) Information as may be necessary to identify the boundaries of the
16 Entertainment Zone;

17 (C) The days and hours of operation of the Entertainment Zone;

18 (D) The types of alcoholic beverages permitted within the Entertainment
19 Zone; and

20 (E) The approved nonglass and nonmetal containers in which alcoholic
21 beverages may be authorized; and

22 (2) issue a Management Plan for the Entertainment Zone, as follows:

23 (A) The Management Plan shall establish a process or procedure to
24 readily identify individuals purchasing or consuming alcoholic beverages within the
25 Entertainment Zone as being 21 years of age or older;

1 (B) The Management Plan shall require that any person or organization
2 seeking a City permit under Division I, Article 6 or Division II, Section 206 of the
3 Transportation Code for an Entertainment Zone Event shall comply with the insurance
4 requirements applicable to that permit, and all rules and regulations authorized by the
5 Transportation Code;

6 (C) The Management Plan may include requirements not otherwise
7 imposed by state or local law, including but not limited to additional requirements for approved
8 beverage containers, additional restrictions on the hours of operation for Entertainment Zone
9 Events, and other time, place, and manner restrictions; ~~and~~

10 (D) For Entertainment Zone Events that are held pursuant to a Downtown
11 Activation Permit: (i) OEWD shall determine if the Downtown Activation Permit satisfies the
12 requirements that would be included in a Management Plan; (ii) OEWD may waive the requirement for
13 a Management Plan where the Downtown Activation Permit satisfies the requirements for the contents
14 of a Management Plan; and (iii) OEWD may issue a Management Plan that is limited to addressing
15 only those requirements not adequately covered by the Downtown Activation Permit; and

16 ~~(DE)~~ Upon issuance or revision of a Management Plan, ~~the Office of~~
17 ~~Economic and Workforce Development~~ OEWD shall transmit a copy of that Plan to ABC. Upon full
18 or partial waiver of the Management Plan requirement, OEWD shall transmit a copy of the Downtown
19 Activation Permit to ABC.

20 (c) Any holder of an ABC license or permit that wishes to allow customers to leave the
21 premises with open containers of alcoholic beverages for consumption off the premises during
22 an Entertainment Zone Event shall provide to ~~the Office of Economic and Workforce Development~~
23 OEWD a copy of the notice provided to ABC under Section 23357, 23358, or 23396 of the
24 California Business and Professions Code, as applicable, at the same time such notice is
25 provided to ABC.

1 **SEC. 94B.4. ~~FRONT STREET ENTERTAINMENT ZONE~~ LOCATIONS.**

2 (a) The Board of Supervisors hereby establishes all of the Downtown Activation Locations set
3 forth in Administrative Code Section 94D.3, including all public streets, public right-of-ways, and
4 sidewalks in front of storefronts abutting both sides of said locations, and all establishments holding
5 permits or licenses from ABC that are located on either side of said locations, as Entertainment
6 Zones under Sections 23039.5 and 25690 of the California Business and Professions Code. All public
7 streets, sidewalks and public rights-of-way on Front Street between California Street and Sacramento
8 Street are hereby designated as the Front Street Entertainment Zone under Sections 23039.5 and 25690
9 of the California Business and Professions Code.

10 (b) An Entertainment Zone Event ~~within the Front Street Entertainment Zone~~ must receive
11 a permit for the use of a public street under Transportation Code Division I, Section 6.6 or
12 6.16 or Transportation Code Division II, Section 206, or other applicable authority of the San
13 Francisco Municipal Transportation Agency (SFMTA).

14 (c) Outdoor consumption of alcoholic beverages is authorized within an Entertainment
15 Zone during any Entertainment Zone Event on any day of the year between the hours of noon
16 and 11:59 ~~p.m.~~, inclusive, subject to any additional limitations imposed by any ABC permit
17 or license and by the Management Plan, or if none, the Downtown Activation Permit, for this
18 Entertainment Zone.

19 (d) A Downtown Activation Permit is not required to hold an Entertainment Zone Event.

20
21 Section 5. Article 15 of the Public Works Code is hereby amended by adding Section
22 795, to read as follows:

23 **SEC. 795. GREATER DOWNTOWN ACTIVATION PERMITS.**

24 (a) **Purpose and Definitions.** The purpose of this Section 795 is to establish a streamlined
25 regulatory program for the Greater Downtown Community Benefit District Master Permitting for

1 Entertainment Activation Program, as established in Administrative Code Chapter 94D, and to allow
2 activations that incorporate Entertainment Zones. For purposes of this Section 795, the definitions in
3 Administrative Code Section 94D.1 are incorporated by reference as if fully set forth herein.

4 (b) **Application Requirements.** A prospective Permittee may submit an application for a
5 Greater Downtown Activation Permit to the Director of Public Works (“Director”), consistent with the
6 requirements of Administrative Code Chapter 94D and this Section 795. Each proposed Permit
7 application must contain the following components:

8 (1) Proposed daily, weekly, and monthly programmed hours of use of the Downtown
9 Activation Location(s) on an annual basis for which the Permit will be active. The Permit shall specify
10 a minimum number of yearly programmed events. In no case shall the Permit propose fewer than ~~30~~20
11 events per year, which may be proposed at one or more Activation Location(s).

12 (2) Proposed scope of activities on an annual basis for which the Permit shall be active.
13 This may include use of moveable or temporary structures or public art; general programming and
14 activation of the Downtown Activation Location; and commercial or non-commercial offerings,
15 including, but not limited to, arts activities; entertainment; food, drink, and/or other refreshment; retail
16 sales; sports; and general recreation.

17 (3) Proposed number and scope of Entertainment Zone events licensed by the
18 Department of Alcoholic Beverage Control (“ABC”) and a list of participating brick-and-mortar
19 establishments.

20 (4) A proposed plan to comply with the Americans with Disabilities Act access
21 requirements.

22 (5) A proposed site plan addressing any temporary or permanent structures within the
23 Downtown Activation Location, such as fences or a stage, public access to and from the Activation
24 Location, first responder access to the Activation Location, Fire Department apparatus access to the
25 Activation Location and affected structures, identification of all emergency facilities and exits within

1 the Activation Location (including, but not limited to fire hydrants, fire connections, street alarm boxes,
2 fire control rooms, fire pump rooms, fire escapes, and building exits and emergency openings), and
3 access to all such facilities and exits. The site plan shall also include at-grade roadway markings such
4 as color curbs, lane striping, parking stall marking, and at-grade utility access panels, storm drains,
5 maintenance hole covers, and other utility access points.

6 (6) A proposed plan for protecting the hardscape and/or landscaping of the Downtown
7 Activation Location, including cleaning activities to be conducted in preparation for, during, and
8 immediately following each event.

9 (7) A proposed plan for notifying occupants of nearby properties that may be affected by
10 the events, notifying relevant government agencies in advance of events, responding to complaints, or
11 responding to feedback from government agencies.

12 (c) **Permit Issuance.** Public Works may issue any Downtown Activation Location Permit
13 consistent with this Section 795 and Administrative Code Chapter 94D. The permit terms and
14 conditions of approval authorized by this Section and Administrative Code Chapter 94D shall be
15 imposed on the Downtown Activation Permit and enforced pursuant to the provisions of this Section.
16 The Director shall approve the application if the Director determines that the applicant has
17 demonstrated its ability to carry out the proposal submitted in its Permit application materials set forth
18 in subsections (b)(1)-(7) above, to implement such measures as may be necessary to protect the
19 security, health, safety, and welfare of the public, and to comply with all applicable laws. In approving
20 an application, the Director must make the specific findings provided in subsections (c)(1)-(3) below,
21 and may, in the Director's discretion, rely upon the review and approval by other City departments,
22 such as the Fire Department and San Francisco Municipal Transportation ~~Authority~~Agency
23 ("SFMTA"), in making said findings.

24 (1) The proposed site plan(s) demonstrate adequate ingress, egress, circulation, and
25 emergency response access for event participants and non-participants in the vicinity;

1 (2) The proposed event schedule provides for adequately spaced and time-limited events
2 that ensure public access to the area outside of scheduled events; and

3 (3) The proposed event dates, duration, and scope do not overextend the City's ability to
4 accommodate such use or occupancy with the necessary resources, considering potentially conflicting
5 uses of public streets and public resources.

6 **(d) Permit Terms and Conditions.**

7 (1) The Permit shall specify the terms of operation, use, and maintenance of a
8 Downtown Activation Location. These terms shall include, but are not limited to, scope of permissible
9 activities; daily, weekly, and/or monthly time periods authorized for such permissible activities and the
10 scope of such activities and uses; the minimum number of yearly programmed events; strategies to
11 ensure cohesion with existing City programs and Shared Spaces permittees within the Downtown
12 Activation Location Permit area; the authorized signage program; and the delineation of maintenance
13 responsibilities between the City and the Permittee.

14 (2) The term of the Permit shall be a minimum of one year and a maximum of five years.

15 (3) The Permit shall specify that the Permit may be terminated, suspended, or modified
16 if the Permittee conducts less than the stipulated number of minimum annual programmed events.

17 (4) The Permit shall require that the Permittee submit an annual calendar of events to
18 the Chief of Police, the Director of Public Works, the Fire Marshal, the SFMTA, and the Entertainment
19 Commission no later than 30 days prior to January 1 of each year. Any changes to the proposed
20 annual calendar or to any individual event or site plan shall require 15 days' notice to the
21 aforementioned agencies.

22 (5) The Permit shall require that the Permittee submit a list of events to be licensed by
23 the ABC pursuant to the Entertainment Zone designation, to the Chief of Police, the Director of Public
24 Works, the Fire Marshal, and the Entertainment Commission. Said list shall also include the licensed
25

1 brick-and-mortar establishments that intend to participate in the Entertainment Zone for a particular
2 event pursuant to California Business and Professions Code Sections 23357, 23358, and 23396.

3 **(6) Liability and Insurance.**

4 (A) The Director shall determine the scope of the Permittee's maintenance and
5 liability responsibility that shall apply to the Permit based on the scope of the Permittee's authorized
6 use of the Downtown Activation Location;

7 (B) The Director shall determine required liability, indemnity, and insurance
8 coverages. If the Permittee has existing liability, indemnity, or insurance coverage that would
9 encompass the permitted activities, the Director may deem that such coverage satisfies the Permit
10 requirements.

11 **(7) Deposit and Security.** Prior to permit issuance, each Permittee shall submit and
12 maintain with the Department a bond, cash deposit, or other security acceptable to the Department
13 securing the faithful performance of the obligations of the Permittee and its agents under the Permit
14 (the "Deposit"). The Deposit shall be in the sum of \$25,000 in favor of the "Department of Public
15 Works, City and County of San Francisco." The Director may make deductions from the balance of the
16 Deposit to ensure faithful performance of the obligations of the Permit, including but not limited to the
17 future modification or restoration of the permit area(s) to a condition satisfactory to the Director if the
18 permittee abandons or terminates the Permit or the Director revokes the Permit. If the Director has
19 deducted from the Deposit, the Permittee must restore the full amount of the Deposit within 30 days of
20 the Director's notice of the deduction. Upon expiration of the Permit, a Permittee's deposit(s), less any
21 deductions, shall be returned to the Permittee or to its assigns.

22 **(8) Non-Exclusive Use.** The Permit shall provide that the Permittee's use and
23 occupancy of the Downtown Activation Location is non-exclusive and shall not take priority over other
24 existing right-of-way permittees, including but not limited to Shared Spaces Permittees, or future lawful
25 occupants of the right-of-way, including but not limited to general members of the public and parade

1 permittees under Police Code Section 367. All events shall be open to the public, except as necessary
2 to comply with other licensing or regulatory requirements, including but not limited to ABC licensing
3 and permit requirements.

4 (9) The Permit shall be conditioned upon the obligation to vacate, remove any furniture
5 or other installations, or modify the Downtown Activation Location at any time, as necessary for any
6 City project or maintenance work, which necessity shall be determined solely by the Director. In the
7 event of an emergency, the Director may remove any of Permittee's furniture or other installations.
8 Under the circumstances described in this subsection (d)(9), it shall be the Permittee's obligation to
9 vacate, remove any furniture or other installations, or modify the Downtown Activation Location at its
10 own cost and return the right-of-way to a condition that the Director deems appropriate. In no event
11 shall the City be liable for reimbursing the Permittee for the costs of or restoring the Downtown
12 Activation Location installation.

13 **(e) Regulations for Downtown Activation Locations.**

14 (1) The Director shall administer all Downtown Activation Locations pursuant to the
15 requirements, rules, and regulations set forth herein:

16 **(A) Performance of Labor.** Permittees may perform labor in the Downtown
17 Activation Locations as permitted by the CBD Nonprofit's contract with the City to administer and
18 implement the CBD's management plan or the Permit. Any labor that exceeds the scope of authorized
19 activities under said contract shall require prior approval of the Director.

20 **(B) No Unpermitted Structures.** All structures stationed or erected in the
21 Activation Location shall be included in the site plan and must be approved in the Permit. There shall
22 be no stationing or erecting of any structure(s) on the Downtown Activation Location without prior
23 permission from the Director and, if required, the Fire Department.

24 **(C) No Smoking.** Pursuant to the Health Code Chapters 19I and 19L, smoking
25 is prohibited on any unenclosed area of property that is under the jurisdiction of any City department if

1 the property is a park, square, garden, sport or playing field, pier, or other property used for
2 recreational purposes, or used as a farmers' market, and at specified outdoor events involving a street
3 closure. This prohibition on smoking shall apply to Downtown Activation Locations.

4 (D) There shall be no skateboarding, bicycle riding, or pets off leash, without
5 prior permission from the Director.

6 (E) No alcohol is allowed to be sold or consumed in Downtown Activation
7 Locations without all required San Francisco and State authorizations and permits.

8 (F) General advertising is prohibited.

9 (G) The Permittee shall maintain the safety, cleanliness, and, to the extent
10 feasible, quiet, of the Downtown Activation Location and its adjacent area.

11 (H) The Permittee shall provide proper and adequate storage and disposal of
12 debris and garbage.

13 (I) The Permittee shall contain noise and odors to the extent feasible, unless
14 otherwise permitted, within the immediate area of the Downtown Activation Location so as not to be a
15 nuisance to neighbors.

16 (J) The Permittee shall prominently display notices during events that urge
17 patrons to leave the Downtown Activation Locations and neighborhood in a quiet, peaceful, and
18 orderly fashion and to not litter or block driveways in the neighborhood. Such notices shall be removed
19 after each event.

20 (K) Collect and dispose of, in a timely manner, any discarded beverage
21 containers and other trash left by patrons after the conclusion of programmed events.

22 (2) **Regulations; Orders.** In addition to the requirements set forth herein, the Director
23 may adopt such orders, policies, regulations, rules, or standard plans and specifications as deemed
24 necessary to preserve and maintain the public health, safety, welfare, and convenience
25 ("Regulations"). Such Regulations may include, but are not limited to, permit application materials,

1 placement of and information contained on signs, site conditions, and accessibility of sidewalks and
2 streets. When such Regulations may affect the operations and enforcement of the SFMTA, the Director
3 of the Department of Public Works shall consult with and provide an opportunity to comment to the
4 General Manager of the SFMTA prior to adoption of such Regulations.

5 (3) **Exceptions.** After written request from a Permittee, the Director is authorized to
6 issue non-material exceptions or other minor amendments to the Downtown Activation Regulations as
7 long as the Director, in consultation with the City Attorney's Office, determines that such exceptions or
8 amendments do not materially increase the City's costs or obligations, decrease the benefit the City
9 receives under the Permit, and are reasonable within the purpose of the Greater Downtown Activation
10 Program. The Director shall issue such exceptions in writing, retain the granted exceptions in a file
11 available for public review, and shall post such correspondence on the Department's website.

12 (f) **Appeal of Permit Issuance or Denial.** The issuance, conditions, or denial of a Permit may
13 be appealed to the Board of Appeals pursuant to the provisions of Charter Section 4.106 and Sections 8
14 et seq. of the Business & Tax Regulations Code. An appeal shall be filed in writing with the Clerk of the
15 Board of Appeals within 15 days of the issuance or denial of the Permit.

16 (g) **Violation of Permit or Regulations; Revocation; Penalties.**

17 (1) **Enforcement Actions; Penalties.** If any Permittee has occupied a Downtown
18 Activation Location in violation of any Permit terms and conditions, requirements, or regulations
19 applicable to the Downtown Activation Location, including but not limited to the failure to hold the
20 minimum number of yearly events, the Director of Public Works may take any action authorized by this
21 Code that is considered necessary to abate or correct the violation. Additionally, a violation of any of
22 the requirements of the CBD Nonprofit's contract with the City to administer and implement the CBD's
23 management plan, including but not limited to reporting and filing requirements, shall be grounds for
24 the actions set forth in this subsection (g). The Director is expressly authorized to:

25 (A) **Modify the terms of the Permit or revoke the Permit;**

1 (B) Issue an administrative or criminal citation in the same manner applicable
2 to Street Plazas, set forth in Section 792(e)(1) of this Code;

3 (C) Call upon other City officials to assist in enforcement, including but not
4 limited to the Chief of Police, the Fire Marshal, and the City Attorney; and

5 (D) Take any other enforcement action authorized by this Code that is
6 applicable to occupancy of the public right-of-way.

7 (2) **Public Hearing; Appeals.** In taking any of the above actions, the Director may hold
8 a public hearing on the Permittee's conduct. If a public hearing is held, the Director shall follow the
9 notice and hearing procedures for Street Encroachment Permits set forth in Section 786 et seq. of this
10 Code. The Director's modification, revocation, or suspension of a Permit may be appealed to the
11 Board of Appeals pursuant to the provisions of Charter Section 4.106 and Sections 8 et seq. of the
12 Business and Tax Regulations Code. An appeal shall be filed in writing with the Clerk of the Board of
13 Appeals within 15 days of the modification, revocation, or suspension of the Permit.

14 (3) **Restoration.** Following the revocation or expiration of a Permit, the former
15 Permittee shall restore the public right-of way to a condition satisfactory to the Director at the sole and
16 absolute expense of the former Permittee.

17 (h) **Reporting.** Permittees must report on the public spaces activated under the Greater
18 Downtown Activation Program, including any Entertainment Zone events, on a yearly basis as part of
19 the CBD Nonprofit's annual reporting under California Streets and Highways Code Section 36650 and
20 the CBD Nonprofit's contract with the City to administer and implement the CBD's management plan.
21 Such report shall include at a minimum the number of permitted Downtown Activation Locations; the
22 number and description of events held that year, including the number of ABC-licensed events, and the
23 number of events held in partnership with other community organizations; whether the events were
24 regularly-occurring or one-time events; and any other relevant information about the Greater
25 Downtown Activation Program.

1 Section 6. Chapter 1 of the Fire Code, Division II, Part I, Section 105, is hereby
2 amended by adding Section 105.5.62, to read as follows:

3 **SECTION 105. – PERMITS.**

4 * * * *

5 **105.5.62. [FOR SF] OUTDOOR ASSEMBLY FOR DOWNTOWN ACTIVATIONS PERMIT.**

6 An operational permit is required to conduct outdoor assembly events as part of the Greater
7 Downtown Community Benefit District Master Permitting for Entertainment Activation Program
8 pursuant to Administrative Code Chapter 94D and Public Works Code Section 795, and is subject to
9 the requirements and procedures set forth below:

10 1. All locations and site plans included in the application shall be consolidated into a single
11 permit;

12 2. Multiple events may be held pursuant to the permit, provided each conforms to the approved
13 site plans;

14 3. For any event that does not conform to the site plan approved in the original permit, the
15 applicant must submit a modified site plan for approval at least 15 days prior to the event;

16 4. Only one filing fee shall be charged per applicant, regardless of the number of locations
17 and site plans submitted with the original application; however, an additional fee up to the equivalent
18 of one hour of staff time may be charged for a modified site plan;

19 5. The filing fee shall be the same as set forth in Table 107-A for an Outdoor Assembly Event;
20 and

21 6. A separate Outdoor Assembly Permit pursuant to Section 105.5.38 shall not be required;
22 however, all other required operational permits for activities regulated by the Fire Department must be
23 obtained and may be consolidated with the permit issued pursuant to this Section 105.5.62.

1 Section 7. The Police Code is hereby amended by revising Sections 21, 1060, 1060.1,
2 and 1060.3.2, to read as follows:

3 **SEC. 21. CONSUMING ALCOHOLIC BEVERAGES ON PUBLIC STREETS, ETC.,**
4 **OR ON PUBLIC PROPERTY OPEN TO PUBLIC VIEW PROHIBITED; PENALTY.**

5 (a) Except as specified in this Section 21, no person shall consume any alcoholic
6 beverage in any quantity on any public street, avenue, sidewalk, stairway, alley, or
7 thoroughfare within the City and County of San Francisco; nor shall any person consume any
8 alcoholic beverage within 15 feet of any public way or thoroughfare while on a private
9 stairway, doorway, or other private property open to public view without the express or implied
10 permission of the owner, the owner's agent, or the person in lawful possession thereof.

11 (b) The provisions of this Section 21 shall not apply to:

12 (1) the interior portion of any private dwelling, habitat, or building;

13 (2) the consumption by persons in the areas herein designated of any duly
14 prescribed and dispensed medication having alcoholic content; and

15 (3) those persons consuming alcoholic beverages while viewing a parade for
16 which a permit has been granted pursuant to Section 367 of this Code.

17 (c) Further, this Section 21 shall not be applicable in the following areas:

18 (1) those prescribed areas and during such time for which permission for
19 temporary use or occupancy of public streets and appurtenant areas has been granted by:

20 (A) The Board of Supervisors pursuant to the provisions of Section 2.70
21 of the Administrative Code;

22 (B) The Department of Public Works pursuant to the provisions of Article
23 5.2 of the Public Works Code for a business establishment anywhere in San Francisco that
24 meets the requirements of a Restaurant or Bar use, defined in Planning Code Section 102, as
25 interpreted by the Zoning Administrator;

1 (C) The Department of Public Works pursuant to the provisions of Article
2 5.2 of the Public Works Code for a business establishment that had a valid tables and chairs
3 permit and California Department of Alcoholic Beverage Control beverage license or permit on
4 the effective date of this Section 21; and

5 (D) Any Shared Spaces permit under Administrative Code Chapter 94A
6 where the business establishment holding that permit has a California Department of
7 Alcoholic Beverage Control beverage license or permit allowing the consumption of alcoholic
8 beverages in the area designated by the Shared Spaces permit; and

9 (2) Any Entertainment Zone under Administrative Code Chapter 94B during an
10 Entertainment Zone Event or an event held pursuant to a Greater Downtown Activation Permit
11 issued under Administrative Code Chapter 94D and Public Works Code Section 795.

12 * * * *

13
14 **SEC. 1060. DEFINITIONS.**

15 For the purposes of this Article 15.1, unless otherwise provided in this Article, the
16 following words and phrases shall mean:

17 * * * *

18 "Limited Live Performance Locale." A locale with all the following features:

19 (a) The presentation of Live Performances is a secondary purpose of the locale rather
20 than its primary purpose.

21 (b) The locale is indoors, or consists of an outdoor patio, plaza, courtyard, or similar
22 space, ~~enclosed by surrounding buildings,~~ with or without open means of public ingress and
23 egress, with an area in which Live Performances are presented that is no greater than 200
24 square feet. For purposes of this provision, "outdoor patio, plaza, courtyard, or similar space"
25 also shall include, regardless of the square footage of the Live Performance area, (1) any

1 Plaza as identified in Administrative Code Chapter 94; ~~or~~(2) any Shared Space as identified
2 in Administrative Code Chapter 94A, or (3) any Greater Downtown Activation Location as
3 identified in Administrative Code Chapter 94D.

4 * * * *

5
6 **SEC. 1060.1. PERMIT REQUIRED.**

7 (a) Except as provided in subsections (e), (f), and ~~(fg)~~, it shall be unlawful for any
8 Person to own, conduct, operate, or maintain, or to cause or permit to be conducted,
9 operated, or maintained, any Place of Entertainment, Limited Live Performance Locale, One-
10 Time Event, Fixed Place Outdoor Amplified Sound Locale, One Time Outdoor Amplified
11 Sound, or Sound Truck in the City and County of San Francisco without first having obtained
12 the required permit from the Director or Entertainment Commission. No Person shall operate
13 a Place of Entertainment between 2:00 a.m. and 6:00 a.m. without having both a Place of
14 Entertainment Permit and an Extended-Hours Premises Permit.

15 * * * *

16 (f) No permit shall be required for a school to conduct activities that occur on school
17 premises in the regular course of school operations, including but not limited to school
18 sporting events, school dances, and school music program performances, that would
19 otherwise require a Place of Entertainment Permit, Limited Live Performance Permit, or Fixed
20 Place Outdoor Amplified Sound Permit. A school shall be required to obtain a One Time Event
21 Permit or One Time Outdoor Amplified Sound Permit to engage in activities on school
22 premises that do not occur in the regular course of school operations and that otherwise meet
23 the criteria for such permits.

24 For purposes of this Section 1060.1, “school” means any Person that is a state-
25 licensed child care center, state-licensed family day care, a public, private, or parochial

1 institution that provides educational instruction for students in any or all of the grades from
2 kindergarten through twelfth grade, or a public or private institution providing post-secondary
3 education as part of a degree program, such as a college or university.

4 (g) No permit shall be required for events that occur pursuant to a Greater Downtown
5 Activation Location Permit issued in accordance with Administrative Code Chapter 94D and Public
6 Works Code Section 795, that would otherwise require a Place of Entertainment Permit, Limited Live
7 Performance Permit, or, subject to Section 1060.3.2, a Fixed Place Outdoor Amplified Sound Permit.

8
9 **SEC. 1060.3.2. APPLICATION FORM FOR FIXED PLACE OUTDOOR AMPLIFIED SOUND**
10 **PERMIT.**

11 (a) An application for a Fixed Place Outdoor Amplified Sound Permit shall specify the
12 following and be signed under penalty of perjury:

13 * * * *

14 (c) A Fixed Place Outdoor Amplified Sound Permit shall not be required for a Downtown
15 Activation Location permitted pursuant to Administrative Code Section 94D, provided that amplified
16 sound occurs only between the hours of 7 a.m. to 10 p.m.

17
18 Section 8. Fee waivers and reductions. The Board of Supervisors urges the San
19 Francisco Municipal Transportation Authority ~~Agency~~ Board to reduce or eliminate application
20 and permit review fees for Greater Downtown Activation Program events, to further the
21 purposes of this ordinance.

22
23 Section 9. Directions to the Clerk. The Clerk of the Board of Supervisors is hereby
24 directed to forward a copy of this ordinance to the California Building Standards Commission
25 upon final passage as required by state law.

1 Section 10. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor’s veto of the ordinance.

5
6 Section 11. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the “Note” that appears under
11 the official title of the ordinance.

12
13
14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

16 By: /s/ HEATHER GOODMAN
17 HEATHER GOODMAN
18 Deputy City Attorney

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