

1 [Promoter permits.]

2
3 **Ordinance adding Article 15.7 to the San Francisco Police Code, requiring promoters to**
4 **obtain promoter permits in order to promote events within the City and County of**
5 **San Francisco.**

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 Police Code is hereby amended by adding Article 15.7 to read
11 as follows:

12 ARTICLE 15.7: PROMOTER PERMITS

13 Sec. 1075.1. Definitions.

14 Sec. 1075.2. Promoter Permit Required.

15 Sec. 1075.3. Filing.

16 Sec. 1075.4. Application Form.

17 Sec. 1075.5. Verification of Application.

18 Sec. 1075.6. Determination of Application.

19 Sec. 1075.7. Suspension and Revocation.

20 Sec. 1075.8. Forfeiture of Fee.

21 Sec. 1075.9. License Fees.

22 Sec. 1075.10. Limited Suspension.

23 Sec. 1075.11. Emergency Suspension.

24 Sec. 1075.12. Transfer of Permit.

25 Sec. 1075.13. Penalty.

1 Sec. 1075.14. Severability.

2 **SEC. 1075.1. DEFINITIONS.**

3 For the purpose of this Article, the following words and phrases shall mean and include:

4 (a) "Promoter" shall mean any person:

5 (1) who is responsible for holding two or more Events per calendar year as
6 evidenced by actions taken to organize the Events, including but not limited to, contracting for the site,
7 selecting or contracting for entertainment, or advertising to members of the public, and

8 (2) receives or shares in any of the following: (a) admission or entry fees paid by
9 those attending the Event, (b) compensation, revenue or other consideration for holding the Event, or
10 (c) revenue from food, beverages, or items sold at the Event, and

11 (3) is not a holder of a Place of Entertainment Permit or an Extended-Hours
12 Premises Permit for the location where the Event is held.

13 (b) "Event." Any Entertainment as defined in Police Code Section 1060 to which the public
14 is invited.

15 (c) "Person." Any person as defined in Police Code Section 1060.

16 (d) "Place of Entertainment." Any premises as defined in Police Code Section 1060.

17 (e) "Extended-Hours Premises." Any premises as defined in Police Code Section 1070.

18 (f) "One-Night Event Permit." Any permit as defined in Police Code Section 1060.29.

19 (g) "Entertainment." Any activity as defined in Police Code Section 1060.

20 (h) "Permittee." A person issued a promoter permit and anyone under that person's
21 direction or control.

22 **SEC. 1075.2. PROMOTER PERMIT REQUIRED.**

23 (a) It shall be unlawful for any person to be a Promoter in the City and County of
24 San Francisco without first having obtained a permit from the Entertainment Commission.

1 **(b) It shall be unlawful for any holder of a Place of Entertainment Permit, an Extended-**
2 **Hours Premises Permit or a One-Night Event Permit to allow a Promoter to hold an Event at a Place**
3 **of Entertainment, an Extended-Hours Premises or at the location of a One-Night Event unless the**
4 **Promoter has obtained a Promoter permit from the Entertainment Commission.**

5 **SEC. 1075.3. FILING.**

6 **Every person seeking a permit or an amendment to a permit pursuant to this Article shall file an**
7 **application with the Entertainment Commission upon a form provided by the Entertainment**
8 **Commission and shall pay a filing fee.**

9 **SEC. 1075.4. APPLICATION FORM.**

10 **Except as otherwise provided herein, an application for a permit pursuant to the provisions of**
11 **this Article shall specify:**

12 **(a) The address of the location for which the permit is required, together with the business**
13 **name of such location.**

14 **(b) The name and address of the applicant. If the applicant is a corporation, the name of**
15 **the corporation shall be set forth exactly as shown in its articles of incorporation; and the applicant**
16 **shall also set forth the date and place of incorporation; the names and residence addresses of each of**
17 **the officers, directors, and each stockholder owning ten (10) percent or more of the stock of the**
18 **corporation. If the applicant is a partnership, the application shall set forth the name and residence**
19 **address of each of the partners, including limited partners. If one (1) or more of the partners is a**
20 **corporation, the provisions of this Section pertaining to a corporate applicant apply.**

21 **(c) The name(s) and address(es) of the person(s) who will have authority or control over the**
22 **Event(s) for which the permit is requested and a brief statement of the nature and extent of such**
23 **authority or control.**

24 **(d) The name(s) and address(es) of the person(s) who appear on any business registration**
25 **certificate for the business.**

1 (e) The convictions for the person(s) whose disclosure is required under Subsections (b), (c)
2 or (d) for any of the following offenses: bribery, forgery, perjury, prostitution, gambling, unlawful
3 possession of a firearm, or furnishing alcohol to minors.

4 (f) The convictions for the person(s) whose disclosure is required under Subsections (b), (c)
5 or (d) for any other offense which is a felony or misdemeanor under the laws of this state, and criminal
6 convictions in another jurisdiction which, if committed in this state, would be a felony or misdemeanor,
7 provided that this Subsection (f) applies only to offenses arising out of the promotion of an Event or the
8 operation of a Place of Entertainment, dance hall, cabaret, or an establishment that serves food or
9 beverages.

10 (g) For the information required by Subsections (e) and (f), a statement setting forth for
11 each person all charges under which convictions were obtained, any sentence imposed as the result of
12 the convictions, the date of each conviction, and location and name of the court for each conviction.

13 (h) Such information pertinent to the promotion of proposed Event(s), including information
14 as to management, lease arrangements, the size of planned events, numbers of performers, a
15 description of any amplification system to be used, and any other information that is reasonably related
16 to the factual determinations this ordinance empowers the Entertainment Commission to make in
17 reviewing and acting upon permit applications.

18 (i) The names and business telephone numbers, cell phone numbers, email addresses, fax
19 numbers and any other business contact information for the day-to-day managers of the business.

20 (j) The address to which notice, when required, is to be sent or mailed, and the name and
21 address of a person authorized to accept service of process, if not otherwise set forth herein.

22 (k) Whether the application is for a new permit or for an amendment to an existing permit.

23 (l) A proposed security plan for operation of Event(s).

24 (m) Proof that the applicant holds commercial general liability insurance with limits of not
25 less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage

1 arising in any way from an Event. Each policy of insurance required under this Subsection shall (1) be
2 issued by an insurer authorized to insure in California, and (2) include a provision requiring thirty (30)
3 days' advance notice to the Director of the Entertainment Commission prior to cancellation or lapse of
4 the policy. In the event an applicant does not hold commercial general liability insurance as required
5 by this Subsection, the Commission may issue a permit; but the Permittee must obtain for each Event a
6 policy for commercial general liability insurance with limits of not less than one million dollars
7 (\$1,000,000) per occurrence for bodily injury and property damage.

8 **SEC. 1075.5. VERIFICATION OF APPLICATION.**

9 Every application for a permit under this Article shall be verified as provided in the California
10 Code of Civil Procedure for the verification of pleadings.

11 **SEC. 1075.6. DETERMINATION OF APPLICATION.**

12 (a) When an application is filed for a Promoter permit under this Article, the Entertainment
13 Commission shall fix a time and place for a public hearing thereon to determine whether issuance of
14 the permit would result in any of the conditions set forth in Subsection (d). The hearing must be held
15 and a determination made within forty-five (45) City business days of the date the completed
16 application is received.

17 (b) At the hearing, the applicant and any other interested party, including the Police
18 Department or any other public agency, shall be allowed to introduce evidence and present argument.
19 The Entertainment Commission shall make a final decision upon the application at a public hearing,
20 and shall notify the applicant, and any other interested party who has made a written request, of the
21 final decision by United States First-Class Mail.

22 (c) No time limit shall commence running until the submission of a completed application.
23 Upon the applicant's request, the Entertainment Commission shall continue the hearing to allow the
24 applicant an opportunity to comply with the requirements of this Article or any other state or local law.

1 (d) The Entertainment Commission shall grant a permit pursuant to this Article unless the
2 Commission finds that:

3 (i) The permit applicant has not provided a security plan that adequately addresses
4 the need to protect the safety of persons and property and to avoid pedestrian and vehicular
5 congestion.

6 (ii) The permit applicant has submitted false or misleading information in
7 connection with the permit application.

8 (e) An applicant whose application for a permit or an amendment to a permit has been
9 denied pursuant to this Section may seek immediate judicial review pursuant to California Code of
10 Civil Procedure Section 1085, Section 1094.5, or 1094.8, as these provisions may be amended,
11 including any successor provisions, or any other procedure provided by law. The applicant is not
12 required to exhaust his or her administrative remedies before the Board of Appeals.

13 (f) If the Entertainment Commission does not act within the time limit required by Section
14 1075.6(a), the Promoter permit will be deemed approved.

15 (g) The Entertainment Commission may delegate to the Director of the Commission the
16 authority to hold a hearing and make the determination whether to grant an applicant a Promoter
17 permit.

18 **SEC. 1075.7. SUSPENSION AND REVOCATION.**

19 (a) Any permit issued under the terms of this Article may be suspended at any time by the
20 Entertainment Commission if the Entertainment Commission determines after a noticed public hearing
21 that any of the following conditions exist:

22 (1) The Permittee has operated in a manner that has harmed the public health,
23 safety, or welfare by significantly increasing pedestrian traffic, the incidence of disorderly conduct, or
24 the level of noise in the area in which the Event is located, and the Permittee has failed, upon request
25 after being requested by the Police Department or Entertainment Commission, to take reasonable steps

1 to alleviate these conditions, such as providing additional off-street parking, security, soundproofing,
2 restroom facilities, or refuse containers.

3 (2) The Permittee has engaged in conduct, allowed another person or persons to
4 engage in conduct, or failed to take reasonable steps, upon request of the Police Department or
5 Entertainment Commission, to halt conduct in connection with an Event that would constitute a
6 violation of any of the following California laws: Penal Code Sections 266h, 266i, 315, 316, 330,
7 337(a), 647(b); Business and Professions Code Sections 23300, 25602, 25631, 25657, 25658; Health
8 and Safety Code Sections 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5; or, the
9 Permittee has implemented, maintained, or permitted any admission or related policy or practice which
10 violates Section 3305 of the San Francisco Police Code. Unless expressly provided otherwise, all
11 statutory references in this Section shall refer to such statutes as amended from time to time and shall
12 include successor provisions.

13 (3) The Permittee has violated or permitted the violation of any other provision of
14 this Article or of the permit, in connection with the operation of an Event.

15 (4) The Permittee has failed to comply with the security plan approved in connection
16 with the grant of the Promoter permit.

17 (b) The Entertainment Commission shall provide the Permittee at least fifteen (15) days'
18 written notice of the grounds for the proposed suspension or revocation, and of the date, time, and
19 location of the public hearing at which the matter will be heard. The Entertainment Commission shall
20 make its determination whether to suspend or revoke a permit within twenty-one (21) City business
21 days of the close of the hearing. The Entertainment Commission may adopt rules governing the
22 procedures by which the Commission hears and determines the suspension and revocation of permits
23 issued under the terms of this Article, and may include a rule extending the time for making its
24 determination after the close of the hearing.

1 (c) The penalty for the first violation under Subsection (a)(1) through (5) within a period of
2 six (6) months shall be suspension of said permit for a period of up to thirty (30) days. The penalty for
3 the second violation of the same or any other provision of Subsection (a)(1) through (5) within a period
4 of six (6) months of the order of suspension for the first violation shall be suspension of said permit for
5 a period of up to sixty (60) days. The penalty for the third and subsequent violations of the same or any
6 other provision of Subsection (a)(1) through (5) within a period of six (6) months of the order of
7 suspension for the second or any subsequent violation shall be suspension of said permit for a period of
8 up to ninety (90) days. For the purposes of this Subsection, calculation of the six (6) months shall not
9 include any period of time during which the permit was suspended. In determining the length of the
10 suspension, the Entertainment Commission shall consider the seriousness and the frequency of the
11 violation(s) in light of the effort taken to correct them and the impact of the violation(s) on the
12 surrounding neighborhood.

13 (d) Any permit issued under the terms of this Article may be revoked at any time by the
14 Entertainment Commission if the Entertainment Commission determines after a noticed public hearing
15 that any of the following conditions exist:

16 (1) The Permittee has knowingly made any false, misleading, or fraudulent
17 statement of material fact or has knowingly omitted a material fact in the application for a permit;

18 (2) The Permittee has failed to pay any fee or charge required under this Article; or

19 (3) The Permittee has sold or transferred ownership of the business.

20 (e) A Permittee whose permit has been suspended or revoked under this Section may seek
21 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
22 1094.8, as these provisions may be amended, including any successor provisions, or any other
23 procedure provided by law. The Permittee is not required to exhaust his or her administrative
24 remedies before the Board of Appeals.

1 (f) A revocation pursuant to Subsection (d) shall not prejudice the right of an applicant to
2 apply for a new permit.

3 (g) The Entertainment Commission may not consider any request for emergency, medical or
4 ambulance services to treat a Permittee's patrons as a basis for suspending a permit pursuant to
5 Subdivision (a).

6 **SEC. 1075.8. FORFEITURE OF FEE.**

7 On revocation of the permit, no part of the license fee shall be returned.

8 **SEC. 1075.9. LICENSE FEES.**

9 Every Permittee who promotes or assists in promoting any event as defined in this Article shall
10 pay to the Tax Collector an annual license fee, payable in advance.

11 The license fee prescribed in this Section is due and payable on a calendar-year basis starting
12 one hundred twenty (120) days after the effective date of this Article, prorated with regard to the
13 calendar year on a monthly basis. Fees for new licenses issued after the first day of January, 2008 or
14 in any subsequent calendar year shall be prorated with regard to the calendar year on a monthly basis.

15 **SEC. 1075.10. LIMITED SUSPENSION.**

16 (a) The Director may suspend any permit issued under the terms of this Article for up to
17 seven (7) days if the Director determines, after providing the Permittee with at least five(5) days'
18 written notice and an opportunity to respond, that one (1) or more of the following has occurred:

19 (1) The Permittee has held Events that have exceeded the allowable noise emissions,
20 as codified in Article 29 of the Police Code, on three (3) separate dates within a three (3)-month time
21 period. Written notice of the proposed suspension shall specify the dates, approximate times, and
22 violations alleged and a copy of the noise emission reports for the alleged violations. Evidence that
23 Permittee has exceeded allowable noise emissions shall be based on reports taken by the San Francisco
24 Police Department, the Entertainment Commission staff, or an agent of either in accordance with the
25 measurement procedures set forth in Article 29 of the Police Code. The Director may not issue an

1 order of limited suspension under Subsection (a)(1) unless the reports indicating the alleged noise
2 violations have been communicated within two (2) City business days of each occurrence to the
3 Permittee. Communication of the reports may be made in writing by delivering a copy personally or by
4 fax or email. Alternatively, communication of the substance of the reports may be made verbally, either
5 in person or by telephone. These communications shall be made to a person identified by the Permittee
6 as responsible for the day-to-day management of the business. Within three (3) City business days of
7 the communication, however made, the Director shall send a copy of each report via United States
8 First-Class Mail to the Permittee, postage prepaid. The Director shall maintain on file a document
9 setting forth the method by which the communications were made.

10 (2) The Permittee has engaged in conduct that constitutes a nuisance, or has
11 allowed or failed to take reasonable steps to halt the conduct of another person or persons that
12 constitutes a nuisance. This Subsection applies only when the conduct occurred on the premises of, or
13 on any sidewalk abutting, the location of an Event; when the conduct continued after the Director
14 notified the Permittee of the problem; and when the Director has informed the Permittee of corrective
15 actions to address the problem and the Permittee failed to take the corrective actions. For purposes of
16 this Subsection (a)(2):

17 (A) "Premises" include the immediately adjacent area that is owned, leased,
18 rented or used by the Permittee for an Event.

19 (B) "Any sidewalk abutting a permitted premises" means the pedestrian-
20 traveled right of way, not more than fifty (50) feet from the premises, that is located between the
21 premises, including any immediately adjacent area that is owned, leased, rented by the Permittee for an
22 Event, and a public street.

23 (C) For purposes of this Subsection (a)(2), conduct that constitutes a
24 nuisance means any conduct that would constitute a violation of the following laws: disturbing the
25 peace (Cal. Penal Code § 415); obstruction of pedestrian or vehicle right of way (Cal. Penal Code §

1 370); gambling (Cal. Penal Code §§ 330, 337(a)); prostitution (Cal. Penal Code §§ 266(h), 266(i),
2 315, 316, 647(b)); loitering (Cal. Penal Code §§ 647(d), 647(h)); violation of laws regulating
3 controlled substances (Cal. Health & Safety Code §§ 11351, 11352, 11359, 11360, 11378, 11379,
4 11378.5, 11379.5); public urination or defecation (San Francisco Police Code Art. 2, § 153);
5 accumulation of filth (Cal. Health & Safety Code § 17920.3(j)); or excessive noise emissions (San
6 Francisco Police Code Art. 29).

7 (D) "Corrective action" includes, but is not limited to, the following:

8 (i) Calling the local law enforcement agency in a timely manner.

9 (ii) Requesting those persons whose conduct constitutes a nuisance to
10 cease the conduct, or ejecting those persons from the premises.

11 (iii) Revising the security plan for the Events, if the Director has
12 approved the revisions.

13 (b)(1) To provide the Permittee with an opportunity to file an appeal, an order of limited
14 suspension issued by the Director shall not be effective for at least three (3) City business days. A
15 Permittee may appeal to the Entertainment Commission an order of limited suspension issued by the
16 Director by filing with the Commission Secretary a written request for review within three (3) City
17 business days of service of the order. Service may be made by personal delivery, fax or email using the
18 contact information provided by the Permittee. Once a Permittee files a request for review, the order is
19 stayed pending the Commission's decision. If a Permittee withdraws the appeal, the Director's order
20 shall no longer be stayed and shall take effect on the date of the withdrawal. The Commission shall
21 hear and decide an appeal of the Director's order within ten (10) City business days of the date the
22 request for review is filed. The Commission may affirm, overturn, or modify the Director's order.
23 When the Commission affirms the Director's order, the order takes effect the day after the
24 Commission's action. When the Commission modifies the Director's order, the order as modified by the
25 Commission shall take effect the day after the Commission's action.

1 (2) If no appeal of the Director's order is filed, the order shall take effect the day
2 after the time to appeal has passed or at any earlier day to which the Permittee and the Director agree
3 in writing.

4 (3) Notwithstanding the provisions of Subsections (b)(1) and (2) relating to the
5 effective date of orders of limited suspension, after issuing an order of limited suspension, the Director
6 shall allow Permittee to submit a plan of corrective action. If the Permittee submits such a plan and
7 the Director approves it, the Director shall stay the order for a period of time that the Director deems
8 reasonable for the Permittee to comply with the plan.

9 (4) When the Permittee has appealed the Director's order to the Commission, the
10 Commission may, if it deems appropriate to do so, include in its action on the matter approval of a plan
11 of correction. Where the Commission has affirmed the Director's order or has approved a modified
12 order of limited suspension, the Commission may direct that the order be stayed to provide the
13 Permittee time to comply with a plan of correction.

14 (5) If the Director determines that the Permittee has complied with the plan of
15 correction by the deadlines set forth in the plan, the Director shall vacate the order. If the Director
16 determines that the Permittee has failed to comply with any substantial element of the plan of
17 correction, including any deadline, the stay shall no longer be in effect and the permit shall be
18 suspended for the period of time set forth in the order of suspension, effective on the date set forth by
19 the Director in a written notice to the Permittee.

20 (6) The Director may initiate orders of limited suspension under this Section against
21 a Permittee no more than three (3) times in any twelve (12)-month period. Each order of limited
22 suspension may include multiple violations under Subsection (a)(1) and (2).

23 (c) When a final order of limited suspension has been issued, the Permittee may seek
24 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
25

1 1094.8, as these provisions may be amended, including any successor provisions. The Permittee is not
2 required to exhaust his or her administrative remedies before the Board of Appeals.

3 (d) This Section shall not be construed to limit or proscribe any power or authority vested in
4 any other public officer or entity with respect to places of entertainment, including the Entertainment
5 Commission

6 **SEC. 1075.11. SUSPENSION FOR PUBLIC SAFETY.**

7 (a) The Director may suspend any permit issued under the terms of this Article for up to
8 seventy-two (72) hours if the Director determines, after providing the Permittee with at least eight (8)
9 hours' written notice and an opportunity to respond, that the Permittee has engaged in conduct on the
10 premises or on any sidewalk abutting the permitted premises that constitutes a public nuisance, or has
11 allowed or failed to take reasonable steps to halt the conduct of another person or persons that
12 constitutes a public nuisance. Conduct that constitutes a public nuisance within the meaning of this
13 Subsection means conduct that meets all of the following: (1) the conduct would constitute a violation
14 of laws prohibiting disturbance of the peace, possession or sale of illegal drugs, public drunkenness,
15 drinking in public, gambling, prostitution, sale of stolen goods, theft, robbery, assault, battery,
16 vandalism, illegal possession or use of a weapon; (2) the conduct has resulted in serious bodily injury
17 or death; and (3) continued operation of the Place of Entertainment poses a serious threat to public
18 safety.

19 (b) Unless it provides otherwise, the order of suspension shall take effect immediately and
20 shall remain in effect for seventy-two (72) hours.

21 (c) The Director may vacate an order of emergency suspension if the Director determines
22 that operation of the Place of Entertainment before expiration of the suspension order will not pose a
23 danger to the public because additional information indicates that the conduct was not related to the
24 operation of the Place of Entertainment, the Permittee has taken steps to correct the problem giving
25 rise to the suspension, or other circumstances warrant such action.

1 (d) When a final order of emergency suspension has been issued, the Permittee may seek
2 immediate judicial review pursuant to California Code of Civil Procedure Section 1085 or Section
3 1094.8, as these provisions may be amended, including any successor provisions, or any other
4 procedure provided by law. The Permittee is not required to exhaust his or her administrative
5 remedies before the Board of Appeals.

6 (e) The authority granted to the Director under this Section shall not in any way restrict the
7 authority of the Director to suspend a permit under any other provision of this Article or the authority
8 of any other public officer or entity to take action with respect to Events, including the Entertainment
9 Commission.

10 (f) For purposes of this Section:

11 (A) "Premises" include the immediately adjacent area that is owned, leased, rented
12 or used by the Permittee for an Event.

13 (B) "Any sidewalk abutting a permitted premises" means the pedestrian-traveled
14 right of way, not more than fifty (50) feet from the premises, that is located between the premises,
15 including any immediately adjacent area that is owned, leased, or rented by the Permittee for an Event,
16 and a public street.

17 **SEC. 1075.12. TRANSFER OF PERMIT.**

18 No permit shall be transferable.

19 **SEC. 1075.13. PENALTY.**

20 Any person who fails to obtain a permit as required by this Article shall be guilty of a
21 misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than five hundred
22 dollars (\$500) and not more than one thousand dollars (\$1000) or by imprisonment in the jail of the
23 City and County for a term of not more than six (6) months, or by both such fine and imprisonment.

1 **SEC. 1075.14. SEVERABILITY.**

2 *If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or*
3 *any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of*
4 *competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining*
5 *portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have*
6 *passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof.*
7 *irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs,*
8 *sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.*

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 Linda M. Ross
14 Deputy City Attorney