

FILE NO. 021076

ORDINANCE NO. 171-02

1 [Charging street fairs where alcoholic beverages are served the full cost of police services,
2 subject to a graduated series of caps based on attendance, and eliminating ISCOTT's
authority to waive police fees for those fairs.]

3 **Ordinance amending Traffic Code Section 806 to charge street fairs where alcoholic**
4 **beverages are served the full cost of police services, subject to a graduated series of**
5 **caps based on attendance, to eliminate ISCOTT's authority to waive payment of the**
6 **cost of police services for those street fairs, and to provide for annual adjustment of**
7 **these fees and caps to reflect changes in the Consumer Price Index.**

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

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

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

14 **SEC. 806. TEMPORARY USE OF STREETS FOR STREET FAIRS.**

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

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

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

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

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

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

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

21 **(d) Review of Application.**

22 (1) Upon receiving an application for permission for the temporary use of a street for
23 purposes of conducting a street fair, the Director shall review the application to determine
24 whether the information required in the application has been provided. If the Director
25 determines that the applicant has failed to provide the information required, the Director shall,

1 within five business days of receiving the application, notify the applicant of what additional
2 information is required. If the applicant fails to provide the additional information required
3 within five business days of notification by the Director, the applicant's application shall be
4 deemed to be untimely filed; provided, however, that upon good cause shown the Director
5 may extend this five-day period. Except as provided in Subsection (2) of this Section, the
6 Director shall transmit the completed application to ISCOTT.

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

20 (e) **Review by ISCOTT; Recommendation.** Except as provided in Subsection (d)(2)
21 of this Section, no later than 60 days prior to the proposed date of the street fair, ISCOTT
22 shall review the application and shall recommend that the Director grant, deny, or grant with
23 conditions the application for a permit. The Director may accept or reject the recommendation
24 of ISCOTT, and may grant, deny or grant with conditions the application for a permit. Upon
25 granting permission to conduct a street fair, the Director shall cause all necessary permits to

1 be issued to the sponsor of the street fair. If the Director denies permission to conduct the
2 street fair, the Director shall state in writing his or her reasons for the denial.

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

9
10 (1) Fire Department:

11 (A) Application fee: \$129.00

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

14 (i) First Day of Street Fair:

15 1 to 10 food vendors: \$163.28

16 11 to 20 food vendors: \$326.56

17 21 to 30 food vendors: \$489.84

18 31 food vendors and over: \$652.92

19 (ii) Each Consecutive Day of Street Fair:

20 1 to 20 food vendors: \$163.28

21 21 food vendors and over: \$326.56

22 (C) LPG heaters: \$163.28 and \$40.82 for each hour after four hours of service.

23 Whenever an LPG heater is used in a tent where a public assembly event is held, one
24 inspector shall be on duty during the duration of the operation of the heater, pursuant to
25 Section 2501.18.1 of the Municipal Fire Code.

1 (D) Tents or membrane structures

2 Permit fee: \$146.00

3 (E) Fireworks or pyrotechnics

4 Permit fee: \$90.00

5
6 (2) Department of Public Health:

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

10
11 (3) Municipal Railway fee:

12 \$6.00 per electrically powered vehicle hour per line affected, where "vehicle
13 hour" means the number of hours each coach on a line is in operation during the day of
14 the event.

15
16 (4) Police Department:

17 (A) Street fairs where alcoholic beverages are served:

18 100 percent of the projected Police Department costs incurred by reason of the street
19 fair, subject to the following caps:

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

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

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

2 40 percent of the projected Police Department costs incurred by reason of the
3 street fair; provided, that this fee shall not exceed \$2,500. ISCOTT shall waive all or
4 part of this fee upon a showing that the sponsors of the event are unable to pay the full
5 fee.

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

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

13 (h) **Conditions.** In addition to any other conditions imposed by the Director, any street
14 fair conducted pursuant to this Article shall be subject to the conditions set forth in Section
15 807.

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

24 At the appeal hearing, the appellant and Director shall have an opportunity to present
25 oral testimony and written materials in support of their positions. Upon hearing the appeal,

1 and after any further investigation which the Board may request, the Board may affirm,
2 reverse, or modify the Director's decision on the issue appealed.

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

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

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

21 (m) **Annual Reports.** No later than December 1st of each year, the Chief of Police
22 and the Director or their designees shall provide to the Board of Supervisors written reports
23 setting forth in detail the Police Department and Parking and Traffic Department costs,
24 respectively, associated with street fairs for that year.
25

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

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

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

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

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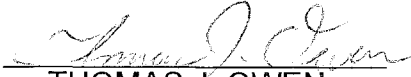
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1 ~~(p)~~ ~~(e)~~ **Severability.** If any part of this Section, or the application thereof, is held to be
2 invalid, the remainder of this ordinance shall not be affected thereby, and this ordinance shall
3 otherwise continue in full force and effect. To this end, the provisions of this ordinance, and
4 each of them, is severable.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney
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10 By: 
11 THOMAS J. OWEN
12 Deputy City Attorney
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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 021076

Date Passed:

Ordinance amending Traffic Code Section 806 to charge street fairs where alcoholic beverages are served the full cost of police services, subject to a graduated series of caps based on attendance, to eliminate ISCOTT's authority to waive payment of the cost of police services for those street fairs, and to provide for annual adjustments of these fees and caps to reflect changes in the Consumer Price Index.

July 1, 2002 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

July 8, 2002 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

July 15, 2002 Board of Supervisors — CONTINUED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

July 22, 2002 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 10 - Ammiano, Daly, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
Absent: 1 - Gonzalez

July 22, 2002 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

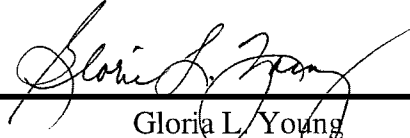
Ayes: 10 - Ammiano, Daly, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee
Absent: 1 - Gonzalez

July 29, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick, Newsom, Peskin, Sandoval, Yee

File No. 021076

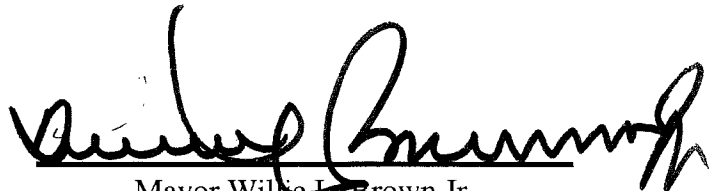
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on July 29, 2002 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

AUG 06 2002

Date Approved



Mayor Willie L. Brown Jr.