Ordinance amending the Administrative Code to authorize the Sheriff to contract with private individuals and private entities to provide supplemental law enforcement services to retail and commercial establishments.

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

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

Section 1. Delegation.

State law allows the Board of Supervisors to contract on behalf of the Sheriff to provide supplemental law enforcement services to private individuals or private entities at special events or occurrences that happen on an occasional basis. Under this Chapter 10A, the Board of Supervisors is delegating to the Sheriff the Board’s authority under state law to contract with private individuals or private entities to provide supplemental Sheriff’s law enforcement services at special events or occurrences that happen on an occasional basis.

Section 2. The Administrative Code is hereby amended by adding Chapter 10A, consisting of Sections 10A.1, 10A.2, 10A.3, 10A.4, 10.5, 10A.6, 10A.7, and 10A.58, to read as follows:

10A.1. DEFINITIONS.
For purposes of this Chapter 10A, the following definitions shall apply:

"City" means the City and County of San Francisco.

"Commercial" establishment means an establishment whose purpose is financial gain.

"Department" means the Sheriff's Department.

"Requestor" means a private individual or private entity. "Event Organizer" means the person, firm, corporation, or organization hosting a cultural, recreational, entertainment, arts, educational, civic, or religious event, including festivals and block parties, and seeking additional personnel, equipment, or materials of the Department at special events or occurrences that happen on an occasional basis, for law enforcement purposes within the City.

"Retail" establishment means an establishment for the sale of goods, typically in small quantities, or services directly to the ultimate consumer or end user.

"Security Plan" means a plan drafted by the Event Organizer Requestor that adequately addresses the safety of persons and property associated with the special event or occurrence that is the subject of the request for Department services. This definition of "Security Plan" does not limit the discretion of the Department to impose more stringent requirements for a Security Plan as circumstances warrant.

"Sheriff" means the Sheriff or the Sheriff's designee.

10A.2. REQUEST FOR SHERIFF'S SERVICES.

(a) Any prospective Event Organizer Requestor desiring supplemental Department law enforcement services within the City for their event special events or occurrences that happen on an occasional basis, may request the Sheriff to provide Department personnel to perform such services. Any request for such services shall include a Security Plan.

(b) The Sheriff may provide supplemental law enforcement services under this Chapter 10A only to Retail and Commercial establishments.
If the Sheriff approves the request for Department services, the Sheriff shall include with the approval a written staffing plan that includes the number of personnel to be detailed in response to the request, the approximate personnel location assignments, the anticipated shifts for all detailed personnel, and the contact information of the Department employee to be assigned to supervise those personnel.

If the Sheriff determines that the requested Department services will require dispatch services from the Department of Emergency Management, the Sheriff shall notify the Executive Director of the Department of Emergency Management (or designee), who may detail such personnel for such services in the number the Executive Director or designee determines to be necessary to perform the dispatch services.

An Event Organizer Requestor whose request for Department services has been denied may submit a request for reconsideration of the denial to the Sheriff in writing within 10 days of receipt of the denial. An Event Organizer Requestor whose request for Department services has been approved may submit a request for reconsideration of the written staffing plan required under subsection (bc) to the Sheriff in writing within 10 days of receipt of the written staffing plan.

The Sheriff shall inform the Event Organizer Requestor in writing of the Sheriff’s final decision regarding any request for reconsideration made under subsection (de) within 10 days of receipt of the request for reconsideration.

SEC. 10A.3. PAYMENT FOR SERVICES.

(a) The Event Organizer Requestor shall pay to the Department such sums of money as may be necessary to pay for the additional services, including any dispatch services provided by the Department of Emergency Management.

(1) The payment shall include a component for Department services, computed based upon the rate paid or payable to those uniformed officers of the Department actually performing
services at the time they are to perform such additional services, and the cost of additional equipment
and materials expended, together with an administrative overhead charge to cover the proportionate
percentage of the Department's administrative costs that are attributable in the Department's
reasonable discretion to the work performed pursuant to the request.

(2) The payment shall also include a component for any dispatch services provided by
the Department of Emergency Management, which shall be computed by the Department of Emergency
Management based on the rate paid or payable to the dispatch personnel actually performing services
at the time they are to perform such additional duties.

(b) The Department shall provide an estimate of the payment for such services, including an
estimate from the Department of Emergency Management for any dispatch services, to the Requestor
Event Organizer within a reasonable time prior to the date service is to be rendered. The Event
Organizer shall deposit the amount of estimated funds with the Department prior to the
time that the Department renders the requested service. The Department may waive the deposit
requirement if the Department reasonably believes that a waiver is justified based on criteria that the
Sheriff shall determine and post on the Department website at least 30 days before accepting any
requests for services under this Chapter 10A.

(c) Within a reasonable time after the services are rendered, the Sheriff shall determine the
amount of payment due. The amount due shall be based on actual services performed by the
Department and any dispatch services by the Department of Emergency Management.

(1) If the deposit pursuant to subsection (b) is insufficient to cover the actual cost of
Department and dispatch services, the Sheriff shall notify the Event Organizer by United
States mail to the address listed on the request for such services, and the Event Organizer shall have 10 days from receipt of the bill to pay the balance.
(2) If the amount deposited pursuant to subsection (b) exceeds the actual cost of
department and dispatch services, the Sheriff shall authorize and arrange payment of a refund of the
excess to the Event Organizer/Requestor.

d) The Department shall deposit with the Treasurer such sums as received in a special account
designated public facilities overtime account; provided, however, that the amount for the Department
representing administrative overhead shall be deposited to the general fund unappropriated balance of
funds, and the amount for the Department of Emergency Management’s dispatch services shall be
transferred to the Department of Emergency Management.

e) The Event Organizer/Requestor shall indemnify, hold harmless, and defend the City, the
Department, the Department of Emergency Management, and all City officers, agents, and employees,
from and against all liability, judgments, or claims for personal injury, including but not limited to
bodily injuries, or other claims, including but not limited to false arrest and false imprisonment, caused
by or purportedly caused by such personnel in the rendering of such services.

(f) The City shall not waive payment for Department or dispatch services provided pursuant to
this Chapter 10A except by ordinance.

SEC. 10A.4. COMPENSATION.

(a) For services performed in excess of the basic week of service, Department members shall be
compensated on the basis of time and one-half in accordance with the ratio that said excess service
bears to the basic week of service and the annual compensation as determined under Section A8.400 of
the City Charter and applicable memoranda of understanding.

(b) Requested services from the Department and the Department of Emergency Management
shall be compensated upon the basis of four hours per employee minimum per assignment.

(c) For services performed in excess of the basic work week, Department of Emergency
Management personnel shall be compensated on the basis of time and one-half in accordance with the
ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in applicable memoranda of understanding.

(d) A member of the Department or Department of Emergency Management, detailed to perform services pursuant to this Chapter 10A, shall not be entitled to any additional overtime benefits other than those provided in this Section 10A.4.

SEC. 10A.5. RESTRICTIONS ON DEPARTMENT MEMBER ELIGIBILITY TO PERFORM SUPPLEMENTAL LAW ENFORCEMENT SERVICES.

(a) Department members shall be ineligible to perform supplemental law enforcement services under this Chapter 10A under the following circumstances:

(1) The Department member is regularly scheduled to work during the hours for which the supplemental law enforcement services are requested; or

(2) The Department member has used more than 20 hours of paid sick leave in the three months prior to the date of the request.

(b) For purposes of subsection (a), the calculation of hours of paid sick leave used by a Department member shall exclude:

(1) Leave for birth or adoption of a child;

(2) Bereavement Leave due to the death of a spouse/domestic partner, parent, child, or sibling. Bereavement Leave due to the death of a person not listed in this subsection (b)(2) shall be included:

(3) COVID-19 Sick Leave;

(4) Federal COVID-19 Sick Leave;

(5) Unpaid Leave;

(6) Unpaid Sick Leave;
(7) Disability Leave, provided that the Department member has filed a disability claim based on the disability. If that claim is denied, the calculation of paid sick leave shall be adjusted to exclude Disability Leave; and

(8) Paid Parental Leave.

SEC. 10A.6. ADMINISTRATION AND REPORTING REQUIREMENTS IN COORDINATION WITH CHIEF OF POLICE.

(a) The Sheriff shall consult with the Chief of Police or the Chief’s designee to ensure coordination between their respective departments in the administration of this Chapter 10A and of Chapter 10B. Coordination shall include identifying and prioritizing requests for services in areas of the City with the highest demand for those services and may include the execution of a memorandum of understanding between the Sheriff and the Chief of Police that addresses relevant operational and administrative implementation issues pertaining to the delivery of supplemental law enforcement services including, but not limited to, processing of requests, assignments of personnel, citations, arrests, bookings, report writing, report review, custodial transportation and investigations. Within 60 days of the execution of such a memorandum of understanding between the Sheriff and the Chief of Police addressing relevant operational and administrative implementation issues, the Sheriff shall transmit a copy of the memorandum of understanding to the Board of Supervisors.

(b) The Sheriff shall consider the recommendations of representatives of City Commercial and Retail establishments in the implementation and administration of this Chapter 10A.

(c) Within 90 days of the effective date of this Chapter 10A, the Sheriff, in consultation with the Chief of Police or the Chief’s designee, shall develop and report to the Board of Supervisors a written plan describing how the Sheriff will implement and administer this
Chapter 10A. The plan shall include policies and procedures governing the delivery of services under this Chapter, including policies and procedures for field training, use of force, citations, arrests, bookings, report writing, custodial transportation, and investigations.

SEC. 10A.7. REQUESTS FOR SERVICES LIMITED TO REQUESTS COORDINATED WITH NOT MET BY POLICE DEPARTMENT; EXPIRATION.

(a) The Sheriff may provide supplemental law enforcement services only to Requestors that demonstrate that the Chief of Police or the Chief of Police's designee is unable to meet has denied their request for supplemental Police Department services under the program established by Chapter 10B of this Administrative Code.

(b) The limitation set forth in subsection (a) above shall expire 60 days after the effective date of the ordinance in Board file No. 211031 establishing this Chapter 10A, provided the Sheriff and the Chief of Police have executed a memorandum of understanding ("MOU") addressing coordination of relevant operational and administrative implementation issues pertaining to the delivery of supplemental law enforcement services including, but not limited to, processing of requests, assignments of personnel, citations, arrests, bookings, report writing, report review, custodial transportation and investigations, or if the MOU is agreed upon at a later date the limitation set forth in subsection (a) shall expire then. Upon execution of such an MOU, the Sheriff shall transmit a copy to the Clerk of the Board of Supervisors, and the City Attorney shall cause this Section 10A.7 to be removed from the Administrative Code.

SEC. 10A.5.8. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Chapter 10A, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

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

APPROVED AS TO FORM:
-DAVID CHIU, City Attorney

By: /s/ JANA CLARK
JANA CLARK
Deputy City Attorney

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Supervisors Safai; Peskin, Mar, Mandelman
BOARD OF SUPERVISORS
Ordinance amending the Administrative Code to authorize the Sheriff to contract with private individuals and private entities to provide supplemental law enforcement services to retail and commercial establishments.

December 14, 2021 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 9 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Ronen, Safai and Stefani
Noes: 2 - Preston and Walton

December 14, 2021 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
Ayes: 8 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Safai and Stefani
Noes: 3 - Preston, Ronen and Walton

January 04, 2022 Board of Supervisors - FINALLY PASSED
Ayes: 8 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Safai and Stefani
Noes: 3 - Preston, Ronen and Walton

File No. 211283

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/4/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved

1/13/22