ORDINANCE NO. _____

An ordinance amending the Dallas City Code by adding a new Chapter ___, "Commercial Promoter Program"; providing a commercial promoter registration program, registration fee, and safety plan requirements for commercial promoters; amending Chapter 27, "Minimum Property Standards," of the Dallas City Code by amending Section 27-46 to include violations of Chapter ___ in the definition of code violations in the habitual nuisance properties program; providing a penalty not to exceed $500 or $2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, commercial promoters are, together with venue operators, over promoting events throughout the city that create large crowds without adequate crowd management, crowd control, security, a general safety plan or an event specific plan, and without regard for public safety, creating a dangerous environment that produces violent crime and harm to persons and property, and unreasonably exhausts public safety resources; and

WHEREAS, city council desires to address these public safety issues created by promoted events, including recouping the city's resources when promoted events do not follow city ordinances; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the Dallas City Code is amended by adding a new Chapter ___, "Commercial Promoters Program," to read as follows:

"**CHAPTER ___**

COMMERCIAL PROMOTER PROGRAM

SEC. ___-1. PURPOSE.

The purpose of this chapter is to establish standards for the operation of promoted events in a way that provides protection for the public attending promoted events that do not receive permits or oversight through other city processes.

SEC. ___-2. DEFINITIONS.

In this chapter:

(1) COMMERCIAL PROMOTER means a person engaged in commercial promotion.

(2) COMMERCIAL PROMOTION means advertisement by any means for a promoted event other than a permitted event.

(3) OWNER. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

(4) PERMITTED EVENT means any event that:

(A) requires a special event permit or has been issued a special event permit under Chapter 42A;

(B) occurs on city-owned property or at a city-owned facility with city permission; or

(C) occurs in a location with a valid specific use permit and a certificate of occupancy for a use that allows the event.

(4) PERSON. The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

(5) PROMOTED EVENT means an indoor event, with an occupancy over _____, or outdoor event of a public nature that is not a permitted event. Promoted events include, but are not limited to music shows, concerts, outdoor activities, and theatrical and other performances where fees are charged to vendors or members of the public for participation or admission.

(6) PROPERTY. The word "property" includes real and personal property.

(7) VENUE OPERATOR means the person with control over a location and property where the action or event occurs.

SEC. ___-3. COMMERCIAL PROMOTER REGISTRATION.

(a) A person engaging in commercial promotion shall register with the city as a commercial promoter. Commercial promoter registration must be submitted on a form provided for that purpose by _____.

(b) A complete commercial promoter registration application must contain the following information:

(1) The legal name, street address, mailing address, electronic mailing address, and telephone number of the registrant.

(2) Any aliases the registrant intends to use in connection to with any commercial promotion.

(3) The names, street addresses, mailing addresses, electronic mailing addresses, and telephone numbers of all partnerships, corporations, or other business entities (including DBAs) associated with the registrant that will appear on any marketing materials advertising or promoting a promoted event.

(4) The name, street address, mailing address, electronic mailing address, and telephone number of a person or persons who can be contacted 24 hours a day, seven days a week, in the event of an emergency condition involving a promoted event connected to the registrant.

(5) The name, street address, mailing address, electronic mailing address, and telephone number of the registered agent for the registrant, if any.

(6) Potential insurance requirements working with Risk Management

(7) Tax ID Number.

(8) Such additional information as the registrant desires to include or that the chief deems necessary to aid in the determination of whether the requested registration should be granted.

(c) A registrant shall notify the _____ within 30 days after any change in the information contained in the commercial promoter registration.

(d) Commercial promoter registration expires two years from the date of registration. Registrants may renew his or her registration for the next two-year period before the expiration of the current period, but not before 30 days prior to expiration.

SEC. ___-4. COMMERCIAL PROMOTER REGISTRATION FEE.

A fee of $____ must be paid to _____ at the time of commercial promoter registration or renewal.

SEC. ___-5. SAFETY PLAN REQUIRED.

(a) In general. Promoted events must comply with an approved safety plan. The venue operator and the commercial promoter are responsible for operating a promoted event in compliance with an approved safety plan.

(b) General safety plan.

(1) A venue operator may file with the _____ a general safety plan that complies with Section ___-6. A general safety plan may only serve as the safety plan for promoted events at the venue specified in the plan and for the type of promoted event specified in the plan.

(2) A general safety plan must be signed by the venue operator, the property owner, and any commercial promoters promoting events at the venue under that general safety plan.

(3) A general safety plan must be submitted to the _____ at least 14 days before the first promoted event at the venue location.

(4) A venue holding promoted events under a general safety plan must also submit to the _____ an updated calendar of promoted events, including beginning and ending times of the promoted events, a minimum of 14 days in advance of the events.

(c) Event-specific safety plan.

(1) If a venue does not have a general safety plan on file with the _____, or if a promoted event deviates in any way from the general safety plan on file, the venue operator or commercial promotor must file with the _____ an event-specific safety plan that complies with Section ___-6. An event-specific safety plan may only serve as the safety plan for the promoted events specified by date, time, and location in the plan.

(2) An event-specific safety plan must be signed by the venue operator, the property owner, and the commercial promoter.

(3) An event-specific safety plan must include a copy of the contract between the promoter and the venue operator.

(4) An event-specific safety plan must be submitted to the _____ at least 14 days prior to the promoted event.

(d) Availability. The safety plan must be kept on-site during the duration of each promoted event and be made immediately available upon request by a representative of the city.

SEC. ___-6. SAFETY PLAN REQUIRMENTS.

A safety plan must include the following:

(1) The legal name, street address, mailing address, electronic mailing address, and telephone number of the property owner, venue operator, and commercial promoter.

(2) The registration number for each commercial promoter.

(3) Street address of the promoted event.

(4) Date(s) of the promoted event (for event-specific safety plans).

(5) The promoted event beginning and ending times (for event-specific safety plans).

(6) A description of the promoted event, including activities, programming, entertainment, and all vendors.

(7) Maximum occupancy of indoor or outdoor spaces pursuant to the Chapter 16, "Dallas Fire Code," or Chapter 52, "Administrative Procedures for the Construction Codes of the Dallas City Code."

(8) Maximum total number of tickets to be sold.

(9) Expected total attendance and maximum expected attendance at any given time.

(10) Parking, including service vehicle loading/unloading and any valet services used.

(11) A description of any infrastructure built in connection with the promoted event such as stages and booths including the names and contact information for all contractors and other responsible parties building the infrastructure.

(12) Set-up and tear-down process and post-event outdoor clean-up plan.

(13) A crowd management plan that includes:

(A) the number, location, and responsibilities of crowd management personnel;

(B) all ingress, egress, and circulation of vehicular and pedestrian traffic, including emergency access for emergency responders;

(C) outdoor queuing for event entry;

(D) indoor queuing for food, beverages, merchandise, etc.; and

(E) any information required by Chapter 16, "Dallas Fire Code."

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(14) A security management plan that includes:

(A) the number, location (inside and outside), and responsibilities of security personnel, including the provider/agency and command structure;

(B) the hours security personnel will be on site; and

(C) incident report procedures.

(15) First aid and medical information that includes:

(A) name of providers, including command structure;

(B) number and location of personnel and first aid and medical stations;

(C) location of signage directing the public to first aid and medical stations; and

(D) accident/incident report procedures.

(16) If the promoted event includes alcohol, provide the TABC license/permit number) or specify if patrons may bring their own alcohol.

(17) Food safety protocols.

(18) Noise abatement strategies.

(19) The number and location of metal detectors, if any.

(20) Whether pyrotechnics will be included in the promoted event.

(21) Emergency contingencies, including event stoppage and evacuation.

SEC. ___-7. DENIAL, SUSPENSION, OR REVOCATION.

(a) The chief shall deny a commercial promoter registration or a renewal if:

(1) the registrant has had his or her registration revoked within the preceding ___ months; or

(2) the registrant has received, within the preceding ___ months, two or more notices of violation or citations related to lack of compliance with a safety plan or this chapter.

(b) The chief shall suspend a commercial promoter registration if the registrant has received, within the preceding ___ months, ____ or more notices of violation or citations related to lack of compliance with a safety plan or this chapter.

(c) The chief shall revoke a commercial promoter registration if:

(1) the registrant made a false statement or omission of material fact on an application for a commercial promoter registration; or

(2) the registrant has received, within the preceding ___ months, _____ or more notices of violation or citations related to lack of compliance with a safety plan or this chapter.

SEC. ___-8. APPEAL.

If the chief of police denies the issuance of a commercial promoter registration or suspends or revokes a commercial promoter registration he shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of his action and the right to an appeal. The aggrieved party may appeal the decision of the _____ to the permit and license appeal board in accordance with Section 2-96. The filing of an appeal stays the action of the chief of police in suspending or revoking a registration until the permit and license appeal board makes a final decision.

SEC. ___-9. EMERGENCY RESPONSE COST RECOVERY.

(a) Purpose. To protect the city from extraordinary operational and financial burdens resulting from the use of city resources in response to certain public safety incidents, demands for services, and criminal activity related to commercial promoter events in violation of this chapter. Emergency response cost recovery shall safeguard city resources and shall, to the extent permitted by law, allow emergency response cost recovery from the responsible party.

(b) Definitions. in this section:

(1) EMERGENCY RESPONSE means the provision, sending, or utilization of public service, police, firefighting, paramedics, rescue service, or any other agent of the city at a promoted event; or

(2) EXPENSE OF AN EMERGENCY RESPONSE means the direct and reasonable costs incurred by the city, or by a private person, corporation, or other entity operating at the request of or direction of the city, through the extraordinary use of public services, when making an emergency response to the promoted event, including the costs of providing police, firefighting, paramedics, rescue services at the promoted event. These costs further include but are not limited to: all of the salaries, wages, workers' compensation benefits and fringe benefits of the city personnel responding to the incident; all salaries, wages, workers' compensation benefits and fringe benefits of the city personnel engaged in investigation, supervision and preparation of post-incident reports; cost of equipment operation, cost of materials obtained directly by the city, cost of any labor or materials, and any property damage.

(3) RESPONSIBLE PARTY means:

(A) any person that is responsible for, in whole or in part, or holds or promotes a promoted event that did not use a commercial promoter registered with the city;

(B) a person that is responsible for, in whole or in part, or holds or promotes a promoted event with a commercial promoter registered without an approved safety plan or in violation of an approved safety plan; or

(C) a person that owns the property where the emergency response is necessary.

(c) Liability for expenses of emergency response. Any responsible party who is responsible for or contributes to any circumstance that results in an emergency response is liable for damages in the amount of the expense of the emergency response. The city may pursue cost recovery fees and expenses for an emergency response in connection with a promoted event that:

(1) is promoted by a person who is not registered as a commercial promoter with the city; or

(2) operates without an approved safety plan or in violation of an approved safety plan.

(d) Enforcement, billing, and collection of emergency response costs. Any responsible party liable for the expense of an emergency response, who fails to reimburse the city within 30 days of receiving notice of the expense incurred by the city because of the emergency response, shall be considered in default. If the responsible party who is liable for the debt refuses to reimburse the city, collection shall be pursued by the city.

SEC. ___-10. OFFENSES.

(a) A person commits an offense if he or she promotes or conducts a promoted event:

(1) while not registered in compliance with this chapter;

(2) without having paid the registration fee;

(3) without an approved safety plan; or

(4) in violation of an approved safety plan.

(b) A person commits an offense if he or she is the individual named as the contact person for the promoted event and fails to meet police officers or code enforcement officers at the site of the promoted event within one hour of being contacted by a representative of the city by telephone or email.

(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code.

(d) This chapter may be enforced by the director of the office of special events, the director of code compliance, the chief of police, the fire chief, or their designated representatives.

SEC. ___-10. PENALTY.

(a) Each offense is punishable by a fine not to exceed:

(1) $2,000 for a violation of a provision of this chapter or a requirement of a permit governing fire safety, zoning, or public health and sanitation; or

(2) $500 for all other violations of this chapter.

(b) A person who violates a provision of this chapter or a requirement of a permit issued under this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed or continued."

SECTION 2. That Paragraph (3) of Section 27-46, "Definitions," of Article VIII, "Habitual Criminal and Nuisance Properties," of Chapter 27, "Minimum Property Standards," of the Dallas City Code is amended to read as follows:

"(3) CODE VIOLATIONS mean violations of the following provisions of the Dallas City Code:

(A) Section 107.6, "Overcrowding," of Chapter 16, "Dallas Fire Code."

(B) Section 30-1, "Loud and Disturbing Noises and Vibrations," of Chapter 30, "Noise."

(C) Section 30-4, "Loudspeakers and Amplifiers," of Chapter 30, "Noise."

(D) Sections 43-126.9, 43-126.10, and 43-126.11 of Division 3, "Valet Parking Services," of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks."

(E) Chapter ___.

(F) Section 51A-6.102, "Noise Regulations," of Article VI, "Environmental Performance Standards," of Chapter 51A, "Dallas Development Code."

(G[~~F~~]) Conditions in planned development or specific use permit ordinances regulating outdoor live music, outdoor patios, the operation of outdoor speakers and amplification, and hours of operation of a use."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed (1) $500; or (2) $2,000 for violations governing fire safety, zoning, or public health and sanitation.

SECTION 3. That Chapter 27 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect [30/45/60 days] from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By_____DRAFT_____
Assistant City Attorney

Passed_____

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