



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Alexa Jeffress  
Director, Economic &  
Workforce Development  
Department

**SUBJECT:** Special Event Ordinance  
Amendments

**DATE:** June 9, 2022

City Administrator Approval

Date:

Jun 9, 2022

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:**

**An Ordinance Amending (1) Oakland Municipal Code Chapter 9.52 (The Special Events Permitting Ordinance) To Transfer Responsibilities From The Oakland Police Department (OPD) To Civilian Staff, Amend Security Protocols, Create Tiers For Differing Events, Streamline The Permit Review Process And Amend The Appeals Process And (2) Oakland Municipal Code Chapter 12.08 (The Encroachments Ordinance) To Align With The Changes To Chapter 9.52; And**

**An Ordinance Amending Oakland Municipal Code Chapter 5.52 (Private Patrol Services And Private Watchman Ordinance) To Update Language In Compliance With The City's Gender-Inclusive Language Policy Including Changing The Term "Watchman" To "Guard;" And**

**An Ordinance Amending The City Of Oakland Master Fee Schedule (Adopted By Ordinance No. 13678 C.M.S., As Amended) To Modify City Of Oakland Special Event Permit Fees**

## **EXECUTIVE SUMMARY**

In July 2020, the City Council adopted [Resolution No. 88236 CMS](#), which requested that the City Administration return to City Council with amendments to the City of Oakland's (City's) Special Events and Street Closure Ordinances, Oakland Municipal Code (OMC) 9.52 and OMC 12.08, to move the permitting of events from the Oakland Police Department (OPD) to civilian staff. Prior to the passage of Resolution No. 88236 CMS, external stakeholders raised concerns regarding the City's approach to entertainment, finding it inequitable, unclear, and indicative of a view of entertainment as a problem rather than as something to support.

Accordingly, over the last year an interdepartmental team of City staff reviewed these critiques and past efforts to improve the City's special events permitting process, conferred with special event regulators across the country as well as the City's Cultural Affairs Commission, and authored proposed amendments to the City's Special Events and Street Closure Ordinances. The proposed amendments transfer the permitting of special event and short-term encroachments to civilian staff, offer transparency, and streamline special event permit processing. Specifically, the amendments outline the factors for determining the level of security needed at an event, introduce different special event tiers to reflect the wide range of events, authorize the processing of repeat events, and establish a review committee to hear appeals of special event permit denials.

In addition to amending the Special Events and Street Closure ordinances, staff proposes amending the Master Fee Schedule to reflect a new one-stop shop approach to special event permitting and a lower fire inspection fee for community events that support historically marginalized communities. Altogether, these amendments seek to lower barriers of entry for special event applicants while ensuring events take place safely.

## **BACKGROUND / LEGISLATIVE HISTORY**

### *Oakland Special Events Ordinance (Ordinance No. 12132 CMS)*

OMC Chapter 9.52 requires anyone conducting a special event to obtain a permit pursuant to the requirements of OMC 9.52. Special events encompass a wide range of activities, including block parties, parades, marches, park gatherings, shows on private property, marathons, and sporting events at the Oakland Coliseum. As a result, special events involve coordinating with a multitude of City departments<sup>1</sup> as well as external agencies, including AC Transit, the Port of Oakland, Alcohol Beverage Control, the Department of Cannabis Control, and Alameda County Public Health Department.

### *Resolution No. 88236 CMS and Staffing Resources*

On July 21, 2020, the City Council adopted Resolution No. 88236 CMS which requested that the City Administrator:

- (1) submit to the Council amendments to OMC Chapter 9.52, and other ordinances that establish criteria, processes, and regulations for approving and permitting special events, to move special events permitting functions from the Oakland Police Department to the City Administrator's Office; and
- (2) designate personnel, in alignment with civil service processes, who can handle street closures and related duties for parades, festivals and similar events.

Resolution No. 88236 CMS did not provide any resources to support the requested actions, meaning that the transfer of permitting special events assigned new functions to existing under-

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<sup>1</sup> Special events can require the involvement of the Special Activity Permits Division, the Oakland Fire Department, Oakland Public Works, the Oakland Parks and Recreation and Youth Development Department, the Oakland Police Department, and the Department of Transportation.

resourced staff. In addition, the COVID-19 pandemic and related health and economic emergency shifted the focus of the Special Activity Permits Division to deploy its resources to emergency response activities supporting businesses and entrepreneurs during the pandemic.

For example, in 2020 and 2021 when public health orders prohibited gatherings, the Special Activity Permits Division focused its limited resources on processing the more than 1,500 cannabis permit applications, and applying for, receiving, and distributing millions of dollars in grants and loans to cannabis equity applicants through multiple programs. During the pandemic the Special Activity Permits Division also implemented COVID-19-related projects, such as the Flex Streets Initiative to help restaurants and retailers operate outdoors, and the Lake Merritt vending program to support vendors impacted by the pandemic.

In the recently adopted fiscal year (FY) 2021-2023 City Budget, the City Council allocated funding for one full-time equivalent (FTE) Permit Technician position that will assist with the processing of special event permit applications once that position is filled. In parallel, the Department of Transportation (OakDOT) is exploring the creation of a new job specification that will explicitly authorize civilian staff to manage street closures at events. The creation of a new job specification will require meeting and conferring with local unions, and approvals of the Civil Service Board and City Council.

#### *Prior Efforts to Improve Special Event Permitting*

Oakland's approach to entertainment has been questioned and analyzed in various forums for several years. In 2009, then Mayor Ron Dellums formed a Mayoral Entertainment Subcommittee that issued a report with recommendations including forging a citywide vision for Oakland's entertainment industry, establishing an Entertainment Commission, and transitioning special event permitting from the Oakland Police Department.<sup>2</sup>

In 2012, the City held a Civic Design Lab workshop with external and internal special event stakeholders which identified an online one-stop shop permit platform as a tool to improve transparency and internal coordination.

Following the Ghostship warehouse fire, Mayor Schaaf established via Executive Order a Special Event Permit Redesign Task Force in 2017,<sup>3</sup> which similarly identified opportunities for streamlining interdepartmental permitting processes and lowering barriers to entry for event holders. Moreover, media reports and academic studies have found the City's approach to entertainment inequitable, unclear, and indicative of a view of entertainment as a problem rather than as something to support.<sup>4</sup>

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<sup>2</sup> Mayor Ronald V. Dellums Community Task Force on Sports and Entertainment, Entertainment Subcommittee Report and Recommendations, June 2009.

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/dowd008436.pdf>

<sup>3</sup> Lefebvre, Sam, Barriers Remain to Reforming Oakland's Nightlife Regulations.

<https://www.eastbayexpress.com/oakland/barriers-remain-to-reforming-oaklands-nightlife-regulations/Content?oid=9073988>

<sup>4</sup> Werth, Alexander L., Racial Reverberations: Music, Dance, and Disturbance in Oakland after Black Power, Spring 2019. [https://digitalassets.lib.berkeley.edu/etd/ucb/text/Werth\\_berkeley\\_0028E\\_18876.pdf](https://digitalassets.lib.berkeley.edu/etd/ucb/text/Werth_berkeley_0028E_18876.pdf)

### *Socio-Economic Disparities in Oakland*

While Oakland's population is highly diverse, much like the greater Bay Area and the United States, Oakland's residential population is racially segregated, which has resulted in Oaklanders with vastly different financial circumstances. Today's residential makeup stems from the federal government's redlining housing policies in the mid-20th century, which discouraged lending to neighborhoods with people of color. Redlining thus denied these communities access to homeownership and generational wealth. Furthermore, the University of California, Berkeley's Othering and Belonging Institute has found that highly segregated African-American and Latinx neighborhoods correlate with negative life outcomes for all people in those communities, including rates of poverty, educational attainment, home values, and health outcomes.<sup>5</sup> It is not surprising then that a city with Oakland's history and persistent residential segregation only scored a 33.5 out of 100 in the first Citywide Equity score, demonstrating substantial room for improvement.<sup>6</sup>

In the context of special events, inequity limits opportunities for expression as events require significant resources to carry out. Complicated permitting processes and costly fees can further exacerbate existing disparities by rendering permits inaccessible. In 2018 the City's Cultural Development Plan identified these challenges by stating, "To cultivate belonging, there must be equitable opportunities (resources and spaces) for self-determined cultural expression and for building cross cultural connections and mutual respect."<sup>7</sup>

### **ANALYSIS AND POLICY ALTERNATIVES**

The proposed ordinance advances the Citywide priorities of **responsive, trustworthy government**, as well as **housing, economic, and cultural security** by changing systems and removing ambiguity from policies and processes to facilitate a fairer permitting process.

#### *I. Increasing Transparency*

The proposed ordinance will make the special event permitting process more transparent by explicitly outlining security requirements, deleting existing ambiguous statutory language, and establishing accountability mechanisms.

#### *A. Explicit Security Standards*

Understanding what type and amount of security the City will require at an event is critical for event organizers given the cost of security, particularly in the form of law enforcement.

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See Also, Williams, Domingo, Reimagining the City of Oakland's Special Events Permitting and Entertainment, 2021.

<sup>5</sup> [The Harmful Effects of Segregation](https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-4), Stephen Menendian, Samir Gambhir, and Arthur Gales, October 31, 2019: <https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-4>.

<sup>6</sup> Oakland Equity Indicators 2018 Report: <https://cao-94612.s3.amazonaws.com/documents/2018-Equity-Indicators-Full-Report.pdf>

<sup>7</sup> Belonging in Oakland, A Cultural Development Plan, City of Oakland (2018), p.63: <https://cao-94612.s3.amazonaws.com/documents/Cultural-Plan-9.24-online.pdf>

Accordingly, the proposed ordinance explicitly outlines under OMC 9.52.080 what factors will determine the level of security required at an event. More specifically, OMC 9.52.080 defines when the City can and cannot require law enforcement as a form of event security. At the same time, the proposed language provides event organizers with the flexibility to request more law enforcement than required at their events. Staff in the Special Activity Permit Division developed these standards after conferring with OPD, special event regulators in multiple jurisdictions, local special event organizers, and the Cultural Affairs Commission.

### *B. Removing Ambiguity*

In addition to clarifying security requirements, staff also proposes deleting existing ambiguous language in the Special Events Ordinance to avoid disparate impacts resulting from unequal implementation of special event requirements. For example, staff's proposed ordinance removes from the definition of a special event the current requirement that licensed entertainment venues obtain a special event permit if an event "will foreseeably result in impacts on public safety, health, welfare, and police resources" (OMC 9.52.040(D)). This eliminates the confusion by making clear that licensed cabarets do not have to obtain a separate special event permit. Similarly, staff recommends deleting existing sections that allow the Chief of Police to exempt an event from paying permit fees or obtaining a special event permit altogether based on the subjective determination that "there is evidence [the event] will not impact police services and will not affect public health, safety and welfare" (OMC 9.52.040(F)). Removing these sections will avoid misunderstandings for both staff and the public as to what the requirements are for events.

### *C. Embedding Accountability*

Staff's proposed amendments include the addition of a Review Committee to hear appeals of special event permit denials under OMC 9.52.090. The Review Committee will consist of three members: a member of the Cultural Affairs Commission, the Chief of Police or their designee, and the Director of the Economic and Workforce Development Department or their designee. Staff recommends including both City staff and a Cultural Affairs Commissioner to combine multiple perspectives and increase transparency with respect to decisions to deny a permit. Staff also recommends limiting the number of Review Committee members to three to ensure a nimble decision-making body capable of hearing requests for reconsideration on short notice and in advance of any proposed event.

Additionally, under OMC 9.52.070 staff proposes including an automated approval if a special event applicant does not receive a response within fifteen days of submitting their application. Staff received feedback from special event stakeholders regarding the importance of receiving a response from the City to provide a measure of certainty in advance of their event. Staff's proposed language provides an event applicant with the certainty that they will receive either an approval, conditional approval, or denial within fifteen days of submittal.

## *II. New Special Event Tiers and Streamlining of Repeat Events*

Given the wide range of events, staff recommends introducing different special event tiers with different application timelines based on the complexity of the event. This will allow staff and

applicants more time to prepare for the most involved events and expedite the processing of less complex events, as outlined below in **Figure One** and in OMC 9.52.040.

**Figure One: Special Event Tiers and Proposed Application Deadlines**

<b>Special Event Tier</b>	<b>Definition</b>	<b>Proposed Application Due Date</b>
One	A special event consisting of the following: less than three-hundred (300) people, either no street closure or only the closure of a local street, no fencing, less than four hundred (400) square feet of tents, no open flames, no pyrotechnics, and no sales of food, beverages, goods, cannabis, or alcohol.	21
Two	A special event that includes any of the following: three hundred (300) or more people, the closure of a non-local street, four-hundred (400) or more square feet of tents, open flames, or pyrotechnics, or includes sales of goods, beverages, cannabis or alcohol.	45
Three	A special event with two-thousand five hundred (2,500) or more people or a parade.	90
Four	A special event consisting of a marathon, half-marathon, triathlon or similar events with active attendee participation and with multiple closures of non-local streets.	120

Understanding that not everyone will be aware of the City’s application deadlines and late submittals are a reality, staff’s proposed amendments to OMC 9.52.050 also allow for staff to attempt to process applications submitted outside of the required timelines, with the provision that staff cannot guarantee late submissions will be processed in time. This makes transparent the City’s policy of working with all applicants, while still encouraging applicants, particularly for complex events, to submit application well in advance of an event so various stakeholders can plan and prepare for a safe event.

*III. One-Stop Shop Model and Reduced Inspection Fees for Community Events*

Beyond transferring oversight of special event permitting from OPD, staff recommends applying a one-stop shop approach to special event permitting to improve efficiency and the experience of event applicants and staff alike. Currently, special event applicants must apply for multiple permits from different City departments and pay separate fees for different components of special events, such as a special event permit with OPD, a sound permit with the Economic and Workforce Development Department (EWDD), and a public assembly permit with the Oakland Fire Department (OFD). Moving forward, EWDD will receive special event applications and coordinate interdepartmental review of the application on behalf of the applicant. This will reduce the amount of work for applicants and enhance interdepartmental coordination.

*A. Updated Special Event Application Fees*

Currently, OPD receives special event application fees as provided in **Figure Two** below. Notably, the current application fees do not fully cover the costs of OPD personnel processing special event applications, especially for complex events such as a marathon, which requires dozens of hours of OPD time to review and coordinate. In addition to paying the special event application fee outlined in **Figure Two**, currently special event applicants apply for additional permits with other departments and separately pay the fees identified in **Figure Three** as well.

**Figure Two: Current Special Event Application Fees**

<b>CURRENT SPECIAL EVENT FEES</b>	
Small Event (50-100 people)	\$50
Medium Event (101-300 people)	\$135
Large Event (301 or more people)	\$200
Parade/Festival Permit	\$450

**Figure Three: Current Related Fees Incorporated Into One Stop Shop Model**

<b>CURRENT RELATED FEES INCLUDED IN ONE STOP SHOP NEW SPECIAL EVENT APPLICATION FEE</b>	
Sound Permit	\$55
Encroachment Permit	\$50
Fire Public Assembly Permit	\$220

As discussed earlier, staff recommends processing special event permits through a one-stop shop approach, whereby applicants submit their application to EWDD, who then coordinates meetings and review of the proposed event with other City departments. Processing an application through a one-stop shop approach can include staff from Oakland Public Works (OPW) to review recycling plans, OFD to ensure fire safety, OPD to evaluate security, and EWDD to process and review the overall application.

**Figures Four, Five and Six** offer different approaches to special event application fees under the one-stop shop model. **Figure Four** (Option A) reflects full cost recovery for all staff time involved under a one-stop shop model, with distinctions based on the tier of the special event, as each tier level involves increased complexity and thus more staff time. While full cost recovery promotes the sustainability of the special events permitting program by not relying on the General Purpose Fund (GPF) to subsidize staff costs, full cost recovery may prove expensive for some special event applicants and could discourage participation in the regulated process. Accordingly, staff has also outlined two alternative approaches: **Figure Five** (Option B) offers a fifty (50) percent reduction across all special event tiers and **Figure Six** (Option C) features a fifty (50) percent reduction for the two smallest special event tiers and full cost recovery for the two largest special event tiers. Staff recommends Option C outlined in **Figure**

**Six** as it reduces barriers for smaller event organizers while also reducing reliance on the GPF for the special event program by requiring larger event holders to cover all of the City's costs.

**Figure Four: Full Cost Recovery Under One Stop Shop Model**

<b>OPTION A: FULL COST RECOVERY SPECIAL EVENT APPLICATION FEE FOR NEW ONE STOP SHOP APPROACH</b>	
TIER 1 (less than 300 people)	\$154.31
TIER 2 (300 or more people)	\$791.69
TIER 3 (2,500 or more people/parade)	\$1,620
TIER 4 (marathons)	\$4,563.90

**Figure Five: Half Cost Recovery Under One Stop Shop Model**

<b>OPTION B: 50 PERCENT COST RECOVERY NEW SPECIAL EVENT APPLICATION FEES</b>	
TIER 1 (less than 300 people)	\$77.16
TIER 2 (300 or more people)	\$395.85
TIER 3 (2,500 or more people/parade)	\$810
TIER 4 (marathons)	\$2,281.95

**Figure Six: Hybrid Cost Recovery Approach Under One Stop Shop Model**

<b>OPTION C: HYBRID APPROACH TO COST RECOVERY FOR NEW SPECIAL EVENT APPLICATION FEES</b>	
TIER 1 (less than 300 people)	\$77.16
TIER 2 (300 or more people)	\$395.85
TIER 3 (2,500 or more people/parade)	\$1,620
TIER 4 (marathons)	\$4,563.90

Notably, the updated special event fees under the one stop shop model in **Figures Four, Five, and Six** are all higher than the current special event application fees listed in **Figure Two**. This is because the one stop shop model includes staff time from multiple departments, not just OPD, and the updated fees thus incorporate City fees that special event applicants currently pay for separately via additional permits outlined in **Figure Three**, such as amplified sound permits, short term encroachment permits, and public assembly permits. Additionally, the current fees in **Figure Two** do not cover all of the current costs incurred by OPD in processing



special event permits, which has not been adjusted to reflect all of OPD's time reviewing special event applications.

While the proposed updated special event application fees are higher than the current fees, the proposed Master Fee Schedule include a reduced application fee for repeat events within the same calendar year. Specifically, staff recommends a 25 percent reduction for each repeat event, up to a maximum of 75 percent off after three repeat events. This reduction reflects the reduced amount of staff time required for repeat events and thus streamlines the process for repeat events.

*B. Reduced Fire Inspection Fees for Community Events*

OFD staff review and inspect events to ensure they take place safely. Specifically, OFD identifies sufficient points of egress, proper spacing of tents, appropriate usage of open flames and pyrotechnics, as well as safe passage for emergency vehicles. However, OFD's inspection fees can present a barrier to special event applicants, and they reduce how far Measure C (Transient Occupancy Tax or TOT) funds can go towards covering the City's costs at City sponsored special events due to the high amount.

Accordingly, in addition to updating the special event application fees, staff recommends setting fire inspection fees at a level that does not present a barrier for community-based organizations to hold special events that support historically marginalized communities. Specifically, staff recommends a three-year pilot program of reduced fire inspection fees of one hundred (100) dollars an hour for "community events," defined under OMC 9.52.040 as an event that:

- (a) Is free for attendees; and
- (b) Supports historically marginalized communities that fall within the lowest quartile of the California Health Places index;<sup>8</sup> and
- (c) Is organized by either:
  - (i) A 501(C)3 organization under the Internal Revenue Code; OR
  - (ii) An organization with an annual budget of no more than \$500,000

Staff's proposed definition of a "community event" focuses reduced fees on free events to ensure that there is no barrier for attendees. Likewise, staff recommends limiting this rate to non-profits and small organizations who lack the resources to form a non-profit, as larger and for-profit organizations can afford the standard fire inspection rate. Furthermore, staff recommends lowering the barrier of inspection fees for events that support historically marginalized communities to realize the City's Cultural Plan of providing equitable opportunities for cultural expression.

During the three-year pilot period staff will evaluate the impact of the reduced fees on both City finances and the ability of historically marginalized communities to carry out events. Additionally, staff will utilize this time period to examine how best to harmonize support for

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<sup>8</sup> The California Healthy Places Index is a data platform that maps data on the social conditions that drive health, such as education, job opportunities, and clean air and water. More information is available here: <https://www.healthyplacesindex.org/faqs> The Health Places Index map can be found here: <https://map.healthyplacesindex.org/?redirect=false>

community events, the historical practice of subsidizing permitting costs for a fixed list of festivals, and the Cultural Affairs Neighborhood Voices grants, with the goal of presenting recommendations to the City Council in advance of the Fiscal Years (FY) 2025-2027 Biennial Budget.

#### *IV. Updating Private Patrol Services With Gender-Inclusive Language*

In the process of updating the special events ordinance, staff identified language in Oakland Municipal Code 5.52, the Private Patrol Services and Private Watchman Ordinance that was not gender-inclusive language. Accordingly, the City Attorney's Office has drafted amendments to bring this ordinance into compliance with City and State policies requiring gender-inclusive language.

### **FISCAL IMPACT**

In general, events can positively impact the City's economy through spending on Oakland businesses, particularly Oakland-owned businesses. However, the permitting of special events requires City staff time and resources, which if not fully supported through application and permit fees, will require a subsidy from the General Purpose Fund or other identified funding source. Under the new one-stop shop special event application process, EWDD staff will receive special event application fees and deposit the fees into the appropriate revenue accounts for all departments involved in the special event permitting process.

With respect to staff's proposed reduced fire inspection fee for community events, staff has estimated a difference of approximately \$322,734 between the reduced rate and the existing inspection rate for one calendar year of special events. The Mayor's 2022-2023 Midcycle Budget includes a one-time subsidy of this amount from the General Purpose Fund to offset any reductions in the Development Services Fund (2415). Staff must track the actual difference between the standard and reduced rate each year and evaluate what adjustments are needed as part of future Budget cycles. Should future City Budget not include a subsidy from the General Purpose Fund for community events, event applicants must pay the current fire inspection fee that provides for full cost recovery.

### **PUBLIC OUTREACH / INTEREST**

Staff has provided updates on the transition of special event permitting from OPD to EWDD at the Cultural Affairs Commission July and October 2021 meetings as well as the May 2022 meeting.

### **COORDINATION**

The Special Activity Permits Division in EWDD consulted with the Budget Bureau, OPD, OFD, the Department of Transportation (OakDOT), OPW, OPYRD, the Department of Race and Equity (DRE), and the Office of the City Attorney in preparation of this report.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Special events and policies to support them can generate tax revenue, business ownership, and employment in the City of Oakland.

**Environmental:** Encouraging local employment and business ownership can reduce commutes and related greenhouse gas emissions.

**Race and Equity:** Equitable special event policies can decrease disparities in business ownership and employment opportunities marginalized communities of color as well as create a sense of belonging in Oakland.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

An Ordinance Amending (1) Oakland Municipal Code Chapter 9.52 (The Special Events Permitting Ordinance) To Transfer Responsibilities From The Oakland Police Department (OPD) To Civilian Staff, Amend Security Protocols, Create Tiers For Differing Events, Streamline The Permit Review Process And Amend The Appeals Process And (2) Oakland Municipal Code Chapter 12.08 (The Encroachments Ordinance) To Align With The Changes To Chapter 9.52; And

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An Ordinance Amending The City Of Oakland Master Fee Schedule (Adopted By Ordinance No. 13678 C.M.S., As Amended) To Modify City Of Oakland Special Event Permit Fees

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,



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