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INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

### ORDINANCE NO. 13704 C.M.S.

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**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**

**WHEREAS**, in 1999 the City of Oakland enacted a special events ordinance, codified as **Oakland Municipal Code (OMC) Chapter 9.52**, to establish procedures for applying for extraordinary police services for special events in the City of Oakland; and

**WHEREAS**, the City's special events ordinance designated the Chief of Police as responsible for oversight and administration of the permitting of special events in the City of Oakland; and

**WHEREAS**, in 2020 the City Council adopted Resolution No. 88236 CMS, which requested that the City Administrator to (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, and 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; and

**WHEREAS**, Oakland's approach to entertainment has been reviewed and analyzed in various forums for several years with an eye toward making improvements; and

**WHEREAS**, 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; and

**WHEREAS, 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; and**

**WHEREAS, following the tragic Ghostship warehouse fire, Honorable Mayor Schaaf established via Executive Order a Special Event Permit Redesign Task Force in 2017, which similarly identified opportunities for streamlining interdepartmental permitting processes and lowering barriers to entry for event holders; and**

**WHEREAS, media reports and academic studies have found the City's current approach to entertainment inequitable, unclear, and indicative of a view of entertainment as a problem rather than as something to support; and**

**WHEREAS, following the passage of Resolution No. 88236 CMS an interdepartmental team of City staff reviewed past efforts to improve the City of Oakland's special events permitting process, conferred with the City of Oakland's Cultural Affairs Commission, and drafted the below amendments to the City's special event permit ordinance, OMC Chapter 9.52, and the City of Oakland's encroachment ordinance, OMC Chapter 12.08; and**

**WHEREAS, the proposed amendments transfer the permitting of special event and short term encroachments to civilian staff, outline factors for determining the level of security needed at an event, introduces different special event tiers to reflect the wide range of events, streamlines the processing of repeat events, and introduces a review committee to hear appeals of special event permit denials; and**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Title 9, Chapter 9.52 of the Oakland Municipal Code is hereby amended to read as follows (additions are shown in underline; deletions are shown as ~~striketrough~~):

**Sections:**

**9.52.010 Title.**

This chapter shall be known as the Oakland special events ordinance.

**9.52.020 Purpose.**

This chapter establishes the procedures for applying for ~~extraordinary police services for~~ special events permits in the city, and authorizes the ~~Chief of Police~~ City Administrator to deny permit applications or impose additional permit conditions to protect the public from potential adverse impacts, and to provide for additional penalties and for the recoupment of extraordinary police services expended in enforcing permit requirements.

### 9.52.030 Permit required.

It is unlawful for any person, entity, business or group (including community, social, fraternal, religious and charitable groups), to conduct a special event unless there exists a valid permit therefore, granted and existing in compliance with the requirements set forth herein. The investigating official referred to in this chapter, to whom the application is referred, shall be the Chief of Police City Administrator.

### 9.52.040 Definitions.

As used in this chapter:

"Applicant" means any person, firm, association, corporation, organization, club or ad hoc committee who or which seeks a special event permit from the City, through the Chief of Police City Administrator, to conduct or sponsor a special event governed by this chapter. An applicant must be 18 years of age or older. The applicant shall be the individual who is directly responsible for organizing and/or conducting the event and/or the facility manager.

"Attended bicycle parking" means a service provided by the event sponsor or qualified bicycle parking service provider where at least one attendant is present throughout the event to receive, return and guard bicycles, and where a safe and sufficiently large area has been set aside for event attendees to leave their bicycles.

"Chief of Police" means the Chief of the Oakland Police Department or his or her designee. "Circus" means any transient, travelling, or transportable show or exhibition where a variety of performances by acrobats, clowns, and/or trained animals and restricted animals is a substantial attraction or principle business.

"City Administrator" means the City Administrator or his or her designee.

"Community Events" means a Special Event that is (a) free for attendees, (b) is organized by either (i) a 501(c)3, a 501(c) 4, or a 501(c)6 organization under the Internal Revenue Code or (ii) an organization with an annual budget of no more than \$500,000, and (c) either (i) is located in areas that fall within the two lowest quartiles of the California Healthy Places index or (ii) has a majority of vendors that reside in areas that fall within the two lowest quartiles of the California Healthy Places Index.

"Entertainment" means providing to the public food and/or beverages; live or recorded music; dancing; mechanical, animal or carnival rides; games of chance; performances and/or plays; animal or restricted animal performances; audiovisual presentations; amplified sound; competitive or sporting events; and/or promotional events.

"Event sponsor" means any person, entity, business, or group who operates or conducts, or shares in the revenue of, an event subject to this chapter.

"Extraordinary police services" means responsive police services which are in addition to and in excess of the normal police services provided to the facility or off-site as a direct result of the event at the facility.

"Facility" means the building, room or place where the special event is to take place. "Local street" means a roadway that provides direct access to adjacent land and is not intended to carry through traffic, as defined by the Federal Highway Administration's functional classification concepts and the California Road System map, subject to interpretation and correction by the Transportation Director or their designee.

"On-site manager" means an employee, agent, or representative of an event sponsor who is physically present at the facility and has the authority to make immediate decisions regarding the conduct of the event.

"Open to the public" means an event not limited to invitees and otherwise open to any member of the public with or without an admission fee or charge. "Permit application fee" means the nonrefundable fee to be paid by the permit applicant at the time the application is filed with the Chief of Police City Administrator. A fee schedule shall be set by the City Council and shall cover the actual costs of processing and investigating special event applications, and administering the special events permit program unless otherwise determined by the Oakland City Council.

"Repeat Event" means a special event that takes place at the same location, consists of the same scope, and is produced by the same applicant as a past special event permitted within the previous twelve months.

"Responsible party" means, for the purpose of determining liability for damage to City or public facilities as a result of a special event and liability for the cost of extraordinary police services pursuant to Subsection 9.52.120G, any event sponsor(s) and/or promoter(s) and/or facility operator(s) and/or facility owner(s) and their respective designees.

"Restricted animal" shall have the same meaning as set forth in Fish and Game Code Section 2119 and Title 14, California Code of Regulations Section 671 et seq.

"Security officer" means a person who possesses a valid state guard permit and who is maintains a current business tax certificate with the City of Oakland currently licensed by the City as a private watchman in accordance with the Oakland Municipal Code. Security officers that staff limited duration special events are not considered private guards and do not need to comply with the city's private guard provisions of Chapter 5.52 as long as they possess a valid current City of Oakland business tax certificate.

"Special event" (hereinafter "event") means, for the purpose of this chapter, an event sponsored by any person, entity, business or group including but not

limited to the Oakland Unified School District, the Port of Oakland, the Oakland Coliseum complex, the Paramount Theater, and at any event venue within the City and open to the public:

- A. Which is held in any public park and/or facility or on any property and/or facility which is open to the public, and
- B. At which 50 or more participants (including sponsors and guests) are present, and
- C. At which entertainment is provided by or for any person, and/or made available to any person, and/or
- D. ~~For-profit entertainment activities of persons, entities and businesses who or which are currently licensed to regularly provide specified entertainment activities at fixed locations in the City but which holds an event that will foreseeably result in impacts on public safety, health, welfare, and police resources, or~~
- E. Any circus event involving a performance by any trained animal or restricted animal.

Exclusions: "Special event," as defined in this section, shall not include:

- A. An event held in a private residence where no admission is charged, the event is not open or advertised to the public, and no extraordinary police services are required;
- B. An event held in a members-only facility at which the only participants are the members (and their invited nonpaying guests) and no extraordinary police services are required;
- C. Events sponsored by religious entities held in the religious entity's facility which only members by permission attend and no extraordinary police services are required;
- D. For-profit entertainment activities of persons, entities and businesses such as cabarets who or which are currently licensed to regularly provide specified entertainment activities at fixed locations in the City ~~and no extraordinary police services are required;~~

- E. Any entertainment for which other City special permits have previously been obtained, such as, but not limited to, parade permits, dance permits, short-term encroachment permits and City sponsored events otherwise permitted when the Chief of Police City Administrator determines such other permits are more appropriate for the particular event.
- F. ~~Any event, series of events and/or specific type of event may be exempted at the discretion of the Chief of Police, based upon evidence that the event or events will not impact police services and will not affect public health, safety and welfare, or animal or restricted animal health or safety if the event is a Circus.~~
- G. An event held at an East Bay Regional Park facility which is subject to existing permit application procedures adopted by the East Bay regional park district, provided the East Bay regional park district notifies all applicants that any person or entity issued a permit for an event at an East Bay regional park facility is liable for the provision by the Oakland Police Department of extraordinary police services that may be required as a result of the event.

“Tier One Special Event” means 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.

“Tier Two Special Event” means 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.

“Tier Three Special Event” means a special event with two-thousand five hundred (2,500) or more people or a parade.

“Tier Four Special Event” means 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.

**9.52.050 Application procedure—Fee.**

- A. Application shall be made to the Oakland Police Department ~~City Administrator~~, at least twenty-one (21) calendar days prior to the event; however, if the event will require extraordinary police services, the applicant must apply to the Chief of Police for a permit thirty (30) days in advance of the special event, and must execute a written agreement

in which applicant agrees to pay the costs of such services, pursuant to Section 9.52.110.

- B. Special Event Permit Applicants shall submit their applications to the City Administrator by the following timeframes:
1. Tier One Special Event Applicants must submit a complete application no later than twenty-one (21) days in advance of the event.
  2. Tier Two Special Event Applicants must submit a complete application no later than forty-five (45) days in advance of the event.
  3. Tier Three Special Event Applicants must submit a complete application no later than ninety (90) days in advance of the event.
  4. Tier Four Special Event Applicants must submit a complete application no later than one hundred and twenty (120) days in advance of the event.
  5. City Staff will attempt to process special event permit applications submitted less than the timelines proscribed in OMC 9.52.050(A)(1)-(4), however, the City cannot guarantee these applications will be processed in time to issue a special event permit.
  6. Special Event applicants may submit an application for one or more repeat event(s) at the same time as their initial special event application by listing all special event dates within twelve (12) months on the special event permit application. The City may conditionally approve repeat special event(s) at the time of approving the initial special event, however, the City reserves the right to add permit conditions or rescind approval(s) for the repeat event(s) if an initial permitted event required extraordinary police services or resulted in a public safety incident.
- C. Application forms submitted pursuant to subsection A of this section shall be fully and truthfully completed by the applicant. Failure to fully and truthfully complete the application form shall be grounds for denial or revocation;

- D. If admission fees or donations are to be collected and/or food, liquid refreshments or physical articles are to be sold at the event, the applicant must present proof of federal and/or state tax exemption status or present a copy of a valid city of Oakland business license and tax certificate and a food handling permit if applicable before the permit may be issued;
- E. If music, dance or any other form of entertainment activity requiring sound amplification equipment is to be provided or allowed at the event, the applicant must so state on the application form and must provide assurance that the city's noise ordinance will not be violated as a result of the activity.
- F. Upon application, the applicant shall state the name and address of the facility, and identify the type of facility, where the event will take place. Before the permit may be issued, the applicant shall be required to present a photocopy of a valid city of Oakland dance hall, cabaret, or other applicable permit or license which authorizes the use of the facility for this type of activity or event. Further, the applicant shall complete the portions of the application which require identification of any occupancy restrictions or other conditions for use imposed by the city on the designated facility; and
- G. Upon application, the applicant shall pay a fee as established by the city master fee schedule. For the next three years following passage of this ordinance, community events shall only pay half the required special event application fee and pay a reduced fire inspection fee of \$100 per hour unless the City Council has not included funding to subsidize these reduced rates in the Budget. In order to qualify as a "community event," events need only satisfy subsections 9.52.040 (a) and (b) for one year following the passage of the ordinance. Thereafter in order to qualify for a discounted fee, community events must satisfy all three subsections. The Chief of Police shall have the discretion to waive this fee for nonprofit organizations.
- H. If food and beverages will be sold, the applicant must submit an Events Recycling Plan that details how the event will ensure food and beverages are served in reusables or approved single use disposables pursuant to OMC Chapter 8.07, OMC Chapter 8.28, and state law including the large events recycling provisions of the Public Resources Code.



- I. Special events that are held on public property, consist of 2,000 or more people, or charge an entrance fee shall also submit plans to manage excess edible food for donation. This shall include an agreement with a local food recovery organization or service to accept excess edible food after the event pursuant to OMC Chapter 8.28, and determine how event discards will be sorted and collected between trash, recycling, and compost. The City shall require documentation of compliance as outlined in OMC Section 9.52.060.

**9.52.060 Contents of application form.**

The application for a special event shall provide the following information:

- A. All events: The name, address, telephone number, and date of birth of applicant and an alternative contact person. If the special event is proposed to be sponsored by one or more organizations, the name, address and telephone number of the organizations, and the president(s) of the organization. If requested by the Chief of Police City Administrator, written authorization to apply for the special event shall be provided by an officer of the requesting organization;
- B. The name, address and telephone number of the person who will be present and in charge at the time of the special event;
- C. The nature and purpose of the event;
- D. The proposed date, location and estimated starting and ending time of the event;
- E. Estimated number of persons anticipated at the event;
- F. Description of any sound amplification equipment which will be used at the event;
- G. Whether any food or alcoholic and/or nonalcoholic beverages will be sold at the event;
- H. Whether monitors or security persons will be utilized at the event;
- I. Parking contingencies planned for the event;
- J. A description of the provisions to be made for attended bicycle parking, pursuant to Section 9.52.080;
- K. Any supplementary information which the Chief of Police City Administrator shall find reasonably necessary, under the particular circumstances of the special event application to determine whether to approve or conditionally approve the permit.

- L. If food and beverages will be sold, the applicant must submit an Events Recycling Plan clearly stating all of the following:
- i. How event discards will be properly sorted into trash, recycle, and compost;
  - ii. Proof of reservation and payment for post event collection services for trash, recycle and compost;
  - iii. Documentation that all foodservice ware intended for use at the event will be compliant with OMC Chapter 8.07 and state law regarding single-use foodware accessories and standard condiments;
  - iv. Plan for how excess edible food will be managed for safe donation after the event per OMC Chapter 8.28;
  - v. Proof of an agreement with a local food recovery organization that will either receive or collect the excess edible food for donation, if the event or venue meets the threshold for large event or large venue as contained in the definitions per OMC 8.28; and
  - vi. The applicant must also submit tonnage tickets for all three streams after the event to document that the material was disposed of properly and for annual reporting to CalRecycle pursuant to state large events recycling law.

**9.52.065 Contents of permit applications for circuses which include entertainment by a trained animal or a restricted animal.**

In addition to the requirements of Section 9.52.060, applicants seeking a permit for a circus event which includes any performance or entertainment by trained animals or restricted animals shall also provide:

- A. An inventory of all the restricted and other animals, whether they are performing or not, that will be present in the City of Oakland during the stated duration of the permit, and any restricted species permit issued under California Code of Regulations, Title 14, Section 671.1, along with a copy of the submitted California Department of Fish and Game Application Form FG1312 and "Restricted Species Nonresident Exhibiting Permit Itinerary."
- B. The names of the on-site manager, and all persons who are the primary handlers of each type of restricted and other animals that will be present in Oakland.
- C. Proof of insurance in an amount which the City Administrator deems appropriate to the risk presented by the event.
- D. Disclosure of all reasonably knowable restricted and other animal cruelty or abuse convictions in the preceding ten years against current employees and contractors who will be present in Oakland during the event, including the on-site manager, primary handler, trainers,

performers working with animals, owners, and operators, and any other person whose duties bring them into contact with performing animals.

- E. Disclosure of all restricted and other animals that have caused injury, as defined in administrative regulations, to people in the preceding five years, including but not limited to employees and spectators.
- F. Disclosure of all restricted and other animals that have caused damage to property located outside of the performance area, as defined in administrative regulations, in the preceding five years.
- G. Copies of most recent three years of USDA inspection reports, registrations, and licenses for restricted and other animals.
- H. Copies of all registrations and licenses for restricted and other animals.
- I. Identification of any restricted and other animals that are reasonably known to be sick, injured, or under medical treatment, or exhibiting obvious symptoms of injury or sickness, and veterinary medical records that document each such animal's condition.
- J. Name and contact of the applicant's local veterinary contact while performing in the City of Oakland.
- K. Disclosure of prior violations of this chapter (Oakland's special event permit ordinance), including the date and type of each violation.
- L. Other pertinent information which the Chief of Police City Administrator requests.

**9.52.070 Action on application.**

- A. The Chief of Police City Administrator shall approve, conditionally approve, or deny the application based on the grounds specified in Sections 9.52.080 to 9.52.090. Such action shall be taken not later than 15 ~~calendar~~ business days after the filing of a complete application. The applicant shall be notified of any conditions of approval pursuant to Sections 9.52.080 and/or 9.52.085 at the time the action on the application is taken.
  - i. A complete application that is not approved, conditionally approved or denied within 15 business days shall be considered conditionally approved. The City may still revoke a special event permit issued under this subsection based upon the existence of any of the conditions under OMC 9.52.100.
- B. If the application is denied or conditionally approved, at the time of taking action on the application, the Chief of Police City Administrator shall inform the applicant in writing of the grounds for denial, or of the reason for the imposition of conditions.

- C. If the ~~Chief of Police~~ City Administrator relied upon information regarding the event other than that which was contained in the application, he or she shall inform the applicant of the additional information considered.

**9.52.080 Conditional approval of permit.**

The ~~Chief of Police~~ City Administrator may impose additional conditions to a permit in the exercise of his or her reasonable discretion when conditionally granting a permit, including but not limited to:

- A. Requiring the applicant to retain or hire one or more security officers, staff trained in de-escalation techniques, and/or police officers to provide security at and during the event. Said security officers, staff trained in de-escalation, and/or police officers must be present and on duty at all times during the event;
1. The City Administrator will determine the level of security required at an event based on the recommendations of the Oakland Police Department's risk assessment that shall be based on the following factors:
    - a. Whether alcohol or cannabis will be consumed at the event;
    - b. How many attendees will be present;
    - c. Whether the event will require the closure of non-local streets;
    - d. Whether the applicant has any previous experience in the City of Oakland managing a special event;
    - e. Whether the event will take place at night;
    - f. Whether the event applicant has held prior events that resulted in violence;
  2. The City shall only require police officers to provide event security if:
    - a. The special event qualifies as a Tier 2, 3 or 4 special event; or
    - b. The City Administrator determines that law enforcement is required in order for the event to take place safely. Such determination shall be in writing.
  3. The City shall not require security officers or police officers if all of the following factors are present:
    - a. The event is a repeat of a prior event, with no changes in terms of event size, format, or applicant; and
    - b. The prior event resulted in no public safety incidents; and

- c. The event will not require the directing of traffic of a non-local street; and
  - d. The event will not include the sale of alcohol or cannabis; and
  - e. The event will not include the exchange of cash; and
  - f. The event consists of less than 100 people.
4. Nothing in this section precludes the event applicant requesting that police officers provide security at their event(s).
- B. Requiring the applicant to be personally present at all times during the event;
  - C. Requiring the applicant to provide a working telephone where he or she can be reached directly at all times during the event;
  - D. Requiring the posting of the event permit at the event facility;
  - E. Requiring a refundable security deposit before issuance of the permit toward the costs of city services and/or cost of damages to public facilities that may be associated with such an event;
  - F. Requiring provision of medical services on-site on a case-by-case basis and/or in consideration of the applicant's previous history; Requiring in the case of live performances the actual name and stage name of every act performing;
  - G. Requiring the submission of copies of all promotional materials simultaneously with the posting or distribution of said materials. All promotional materials must identify the promoter, and must not be posted or affixed to or on city or public property;
  - H. Requiring a proof of liability insurance, or other relevant insurance coverage, in the amount required by the City that the City Administrator deems appropriate to the risk presented by the event;
  - I. Requiring the event promoter to provide attended bike parking service for events that expect two thousand five hundred (2,500) five-thousand (5,000) or more attendees, and for smaller events at the discretion of the ~~Chief of Police~~ City Administrator. The promoter must advertise the service to potential attendees in all outreach and advertising materials and media, and place the bike parking area in an accessible location;

- J. Requiring such other additional conditions as are reasonably believed to be necessary to protect the public health, safety, welfare and order, as well as the health and welfare of restricted and other animals, and to minimize adverse impacts upon the surrounding neighborhood and the general community.
- K. Requiring a third party vendor to conduct education on proper trash, recycle and compost sorting at zero waste stations and for post-collection sorting after the event.
- L. Requiring reusable food service ware at the event.
- M. Limiting the duration of an event to no more than three days.
- N. Requiring the event applicant to obtain signed waivers of each event participant.

**9.52.085 Power to impose regulations and conditions on circus events.**

- A. In addition to Section 9.52.080, the ~~Chief of Police~~ City Administrator shall have the power to impose additional conditions on a circus event permit covered under Section 9.52.065 in the exercise of his or her reasonable discretion, to provide for the welfare of all animals and restricted animals and for the health and safety of the public.
- B. The City Administrator shall have the power to adopt regulations relevant to circus events covered under Section 9.52.065, to enforce this chapter and to provide for the welfare of all animals and restricted animals and for the health and safety of the public. These regulations shall include, but are not limited to: facilities inspections, restricted and other animal health inspections by City staff including any experts or consultants appointed by the ~~Chief of Police~~ City Administrator, and inspections of the restricted and other animals' food quality, the production of veterinary medical records, the production of test results for disease, and other health-related information.
- C. Violation of any regulations enacted to enforce this chapter, or of conditions imposed on a circus event permits, shall constitute a violation of this chapter.

**9.52.090 Grounds for denial of application.**

Permits for special events will be granted at the discretion of the ~~Chief of Police~~ City Administrator. A special events permit application may be denied upon evidence that:

- A. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail; or
- B. The applicant has failed to provide a complete application form after having been notified of the requirement of producing additional information or documents; or
- C. The applicant has not submitted a completed application form in the time provided pursuant to Section 9.52.050.
- D. The applicant has previously had a permit revoked, in Oakland or in another jurisdiction, for violation of permit conditions or for unlawful conduct relating thereto and it is reasonably believed that similar violations or unlawful conduct will again occur;
- E. The granting of the permit will have a substantial adverse impact upon the public health, safety, or order; and/or
- F. The granting of the permit will result in substantial adverse impacts (including, but not limited to, noise, litter, traffic and congestion) upon the surrounding neighborhood or the community in general.
- G. Another complete special event application has been previously filed for a different event at the same time and place requested by the applicant, or so close in time and place as to cause traffic congestion or a demand for police services which the Police Department is unable to meet; or
- H. The time or size of the event will substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic in the immediate vicinity of the event, or disrupt the use of a street at a time when it is usually subject to great traffic congestion; or
- I. The concentration of persons, animals and vehicles at the site of the event will prevent proper police, fire, ambulance, or other essential public services to areas contiguous to the event; or
- J. The size or duration of the event will require diversion of so great an amount of city police services that providing for the minimum level of police services to other areas of the city is jeopardized; or

- K. The event will substantially interfere with construction or maintenance work scheduled to take place upon or along the city streets or a previously granted encroachment permit; or
- L. The event will occur at a time and place where the noise created by the activities of the event will substantially disturb or disrupt the activities of such institutions as schools and hospitals; or
- M. Sponsors have failed to pay the city for previous special events or parade fees and costs.
- N. The sponsor fails, or has failed in the past, to make provisions for attended bicycle parking, pursuant to Section 9.52.080; or
- O. The granting of the permit is likely to result in substantial negative impacts upon the delivery of City-wide police services and therefore pose a threat to the public health, safety and order due to the likelihood of the special event resulting in a call for a police emergency response.
- P. A circus event permit applicant, circus on-site manager, or circus event sponsor fails to comply with any regulations or conditions imposed pursuant to Section 9.52.085, or is subject to mandatory denial pursuant to Section 9.52.115.
- Q. A circus event permit applicant, including the circus event sponsor, circus on-site manager, or circus primary animal handler, has been convicted of acts constituting cruelty or abuse on a restricted or other animal within the preceding ten years.
- R. The applicant has failed in the past to adhere to their Events Recycling Plan by neglecting to provide either trash, recycle and compost collection or compliant food service ware and/or the donation of excess edible food.
- S. ~~The Chief of Police~~ City Administrator shall state, in writing, the reasons for any denial of the event permit. Any applicant whose application is denied shall have the right to request reconsideration of the denial. Request for reconsideration must be submitted to the ~~Chief of Police~~ City Administrator or designee within five days of issuance of the denial. Said request for reconsideration shall be in writing and shall state any and all reasons of any nature why the ~~Chief of Police's~~ City Administrator's stated reasons for denial are in error.



1. The request for reconsideration shall be reviewed by a three-person Review Committee. The Review Committee shall consist of one member of the Cultural Affairs Commission, the Chief of Police or their designee, and the Director of the Department of Economic and Workforce Development or their designee. No members of the Review Committee shall have participated in the underlying decision to deny the event permit.
2. Within five days of receipt of said request for reconsideration, the ~~Chief of Police-Review Committee~~ shall send written notice of ~~his/her~~ its decision and or notice of hearing on the reconsideration request to the applicant.

**9.52.100 Revocation of event permit.**

An event permit may be revoked at any time, including during the event, by the City Administrator Patrol Division Commander, or his designee, for;

- A. Violation of any of the imposed permit conditions; or
- B. Failure to obtain and post any permit required by the State Alcoholic Beverage Control Board to serve alcoholic beverages; or for
- C. The occurrence of unlawful or criminal activity during the event.
- D. Any ground stated in Section 9.52.090.
- E. Failure to provide trash, recycle and compost collection or compliant food service ware and/or donation of excess edible food.

Revocation shall be immediately effective upon public announcement of the revocation thereof by the City Administrator, including any police officer designated by the Patrol Division Commander to so act.

**9.52.110 Penalties for violation of event permit requirements.**

- A. Any violation of this chapter, or of regulations implementing this chapter, may be charged as a civil penalty or an infraction, as provided for in Title 1 of the Oakland Municipal Code, except as specified in Subsection B. of this section. Enforcement action specifically authorized by this section may be utilized in conjunction with, or in addition to, any other statutory, code, administrative or regulatory procedure applicable to this chapter or under state or federal law. In addition, nothing in this section shall be interpreted to preclude or limit the City from seeking injunctive or other judicial relief.

- B. It shall be a misdemeanor:
1. For an event sponsor, on-site manager, or his or her designee, to refuse to terminate or suspend any event for violation of a City event permit conditions, or for holding an event without benefit of a City event permit; or
  2. For any person, applicant, event sponsor, or on-site manager of a circus, to deny, unreasonably delay, and/or interfere with City inspections attempted or conducted under this chapter. A delay shall not be "unreasonable" under this section if it meets all of the following: (a) it is less than 30 minutes duration total, (b) is due to the temporary unavailability of persons identified pursuant to Subsection 9.52.065.B who are essential to allow the City to safely perform a physical inspection of a particular animal or its quarters, and (c) the City is provided the immediate ability, without delay, to visually observe the animal or quarters while waiting for the person named in Subsection (b) above.

**9.52.115 Denial of future circus event permits based on past violations.**

In addition to any fine, penalty, or other enforcement action available under this Code, State law, or federal law, the ~~Chief of Police~~ City Administrator shall not issue a circus event permit in the future, to an applicant who has committed a violation of this chapter. The length of time that such an application must be denied will be no less than 12 months for less serious violations, and no longer than 60 months for the most serious violations, measured from the date the violation was committed. The City Administrator shall enact regulations to enforce this section, and the regulations shall include criteria describing types of violations, along with corresponding mandatory denial periods, depending on the seriousness of the past violations and/or the number of past violations.

**9.52.120 Extraordinary police costs and/or traffic control fees.**

- A. Prepayment of Fees. Before a special event permit may be issued the Chief of Police shall provide the applicant with a statement of the estimated cost of providing extra police officers for the event. The applicant/sponsor shall be required to pay these fees at a minimum two weeks in advance of the event.
- B. Computing Extra Police Services. The extra police services shall be computed by determining the number of police officers who will be required for the special event beyond that which would otherwise be required at that time, multiplied by the number of hours for which such additional service is rendered at the rate of the city's full cost of providing officers on an hourly basis as

established by the master fee schedule. Such personnel to perform the additional police services shall be determined by the Chief of Police in the number he or she determines is reasonably necessary for the event. Police personnel assigned to special events are city employees while so engaged and are under the sole direction of the Chief of Police.

- C. Refunds or Additional Charges. If the actual cost for extra police services on the date of the event is less than the estimated cost pursuant to subsection A of this section, the applicant/sponsor will be promptly refunded the difference by the city from the general fund. If more police hours are required than originally charged, the event sponsor will be billed the additional costs. Payment of additional costs shall be due within fifteen (15) days of the date the bill is deposited in the mail. If full payment is not received within the required time for payment, the event sponsor is subject to interest charges at the maximum legal rate computed from the date the payment period expires. If the event is cancelled less than five business days prior to the scheduled event, a cancellation fee will be assessed.
- D. Failure to Reimburse for Additional Police Services. The cost of any additional extraordinary police services pursuant to subsection C of this section shall be collected from the event sponsor in any manner prescribed by law, including but not limited to placement of a lien on the event sponsor's property and/or an action in small claims court. This remedy is in addition to all other civil and criminal remedies available to the city.
- E. The costs assessed against an event sponsor and/or promoter and/or facility operator for recoupment of the cost of additional extraordinary police services pursuant to subsection C of this section shall include: (1) the actual cost of salaries, benefits, and administrative overhead of the police personnel providing the services; (2) the cost of medical treatment for police personnel injured while providing services; (3) the cost to replace or repair city property damaged while providing the services; and (4) the cost incurred in making arrests while providing the services.
- F. Any event sponsor and/or promoter and/or facility operator billed for additional extraordinary police services pursuant to subsection C of this section may request a hearing on the matter before a hearing examiner designated by the City ~~Manager~~ Administrator. In order to obtain a hearing, the event sponsor shall file a written request therefor within ten days of the date of the invoice mailed to the sponsor that shall state the grounds for appeal. When a written appeal is filed by the applicant, a hearing shall be set at a

date and time not less than ten and not more than forty-five (45) days following the filing of the appeal. The event sponsor shall be notified of the date, time and place of the hearing. Upon conclusion of a hearing, the hearing examiner shall render a decision within fifteen (15) days. The hearing examiner's decision shall be final.

- G. The event sponsor(s) and/or promoter(s) and/or facility operator(s) and/or facility owner(s) and their respective designees are all and each severally liable for the cost of additional extraordinary police services.

**SECTION 2:** Title 12, Chapter 12.08 of the Oakland Municipal Code is hereby amended to read as follows (additions are shown in underline; deletions are shown as strikethrough):

**12.08.060 - Permit requirements for short term encroachments.**

No short term encroachment shall be allowed in the dedicated public right-of-way except in compliance with the terms of a permit to be granted by the ~~Chief of Police~~ City Administrator or their designee. A separate permit must be obtained for each separate event to be held on public right-of-way and shall remain in force for a maximum period of three days unless permission to encroach for a longer period is granted by resolution of the City Council.

A necessary condition of granting a short term encroachment permit is that the applicant must be sponsored by or represent a local merchant association or community organization, except that in residential areas an applicant may be granted a short term encroachment permit to hold a block party when he or she represents a majority of residents on the concerned block. Any such merchant association, community organization or group of residents may semiannually sponsor only one application for short term encroachment. In commercial or industrially zoned areas the majority of the tenants must support the proposed encroachment.

A permit for short term encroachment shall contain, in addition to the requirements therefor contained in this title, such additional requirements as, in the judgment of the ~~Chief of Police~~ City Administrator or their designee, the proposed short term encroachment shall require for public health and safety.

Upon approval of an application for a short term encroachment permit, the ~~Chief of Police~~ City Administrator or their designee shall provide the applicant with a statement of the estimated cost of providing police officers or other City staff for pedestrian and traffic control at the location described in the application. The applicant/sponsor shall be required to prepay the traffic control fees prior to the issuance of a short term encroachment permit. Traffic control includes clearing the encroachment site of unauthorized vehicles, diversion of traffic around the

encroachment area, and directing pedestrian and vehicular traffic at the encroachment location.

The police personnel costs shall be computed by determining the number of police officers who will be required beyond that which would otherwise be needed at that time multiplied by the number of hours for which such additional service is rendered at the rate of the city's full overtime cost of providing officers on an hourly basis as established by the city's master fee schedule.

If the actual cost for police personnel on the dates of the encroachment are less than the estimated cost paid by the applicant/sponsor, the applicant/sponsor will be refunded the difference by the city from the general fund. If more police hours are required than originally charged, the applicant/sponsor will be billed the additional costs

#### **12.08.090 - Permit procedure for short term encroachment.**

A separate application must be filed for each permit for short term encroachment. Application for a permit for short term encroachment shall be filed ~~in with the Office of the Chief of Police~~ City Administrator or their designee. After filing of the application, the Chief of Police shall consider the advisability of issuing a short term encroachment permit. Fees shall be in accordance with the master fee schedule.

When an application for a short term encroachment permit complies with the provisions of this title and any further requirements set by the ~~Chief of Police~~ City Administrator or their designee for public health and safety, the ~~Chief of Police~~ City Administrator or their designee shall approve the application. Such approval constitutes granting of a conditional revocable permit. A permit for short term encroachment shall become null and void upon the failure of the permittee to comply with any condition established for the granting of such permit.

#### **12.08.120 - Liability insurance required.**

No permit for installation of a major or minor encroachment or for undertaking, in commercial or industrially zoned areas, a short term encroachment shall be granted until the applicant therefor has placed on file with the City Clerk a written certificate of insurance or copy of the policy showing that insurance is in effect in compliance with this section. For short term encroachment permits an additional copy shall be submitted to the City Administrator or their designee-~~Office of the Chief of Police~~. Such insurance shall be issued by a responsible and solvent corporation, authorized to issue insurance policies under the laws of the state of California. The public liability policy or policies shall insure, in addition to the permit applicant, the city, its agents and employees against loss from any liability imposed upon the city, its agents and employees for injury to or death of any person, or damage to property growing out of the installation of any encroachment(s) for which a permit or permits is or are granted under the

provisions of this title. The policy or policies shall contain an endorsement declaring the policy or policies as primary coverage on said liabilities. The minimum amounts specified in such public liability policy or policies shall be three hundred thousand dollars (\$300,000.00) for each occurrence for public liability insurance and fifty thousand dollars (\$50,000.00) for each occurrence for property damage insurance. Additional amounts may be required as circumstances warrant, at the sole discretion of the Director of Public Works or the ~~Chief of Police~~ City Administrator or their designee. The policy of insurance shall be maintained in its original amount by the permittee at his or her expense at all times during the period for which the permit is in effect. Said policy shall also state that it shall not be cancelled or amended except upon thirty (30) days' prior written notice thereof to the City ~~Manager~~ Administrator.

#### **12.08.130 - Revocation of permit—Notice to remove encroachment.**

Any encroachment permit may be revoked, or renewal denied, if the permittee fails to comply with any of the provisions of this title or any of the special conditions set forth for the granting of such permit, at the discretion of the issuing authority. The issuing authority shall be that of the City Council, the Director of Public Works, or the ~~Chief of Police~~ City Administrator or their designee, depending upon the type of encroachment permit, as stated hereinbefore.

Upon the revocation of any major or minor encroachment permit, it shall be the responsibility of the Director of Public Works to require the permittee at his or her sole expense to immediately remove the encroachment from the sidewalk or street area and to repair any damage resulting therefrom to the satisfaction of the Director of Public Works.

The notice to remove an encroachment shall be given in writing to the owner or his or her authorized agent. It shall be sent to the owner of record and to the permittee if he or she is other than the owner of record of the property fronting on the portion of sidewalk and street containing the encroachment.

#### **12.08.190 - Appeals.**

An applicant shall have the right of appeal in cases where an application for a minor or short term encroachment is denied by the issuing authority. Any such administrative determination or interpretation denying application which is made by the Director of Public Works, for minor encroachments, or the ~~Chief of Police~~ City Administrator or their designee, for short term encroachments, may be appealed to the ~~City Manager~~ Review Committee described under OMC 9.52.090. Such appeal shall be made on a form prescribed by the Office of the City ~~Manager~~ Administrator and shall be filed with such Office.

The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Director of Public Works or the ~~Chief of Police~~ City Administrator or their designee or wherein the decision for denial of application is

not supported by evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal, the ~~Review Committee Office of the City Manager~~ shall set a time for hearing such appeal, and at such time shall consider the merits of the appeal. The decision of the Review Committee shall be final.

IN COUNCIL, OAKLAND, CALIFORNIA,

**JUL 26 2022**

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS **- 8**

NOES – **0**

ABSENT – **0**

ABSTENTION – **0**

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the  
City of Oakland, California

**Introduction Date**

**JUL 19 2022**

Date of Attestation:

**August 11, 2022**

## NOTICE AND DIGEST

**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**

This Ordinance will amend Oakland Municipal Code Chapter 9.52 (the Special Events Permitting Ordinance) to transfer the permitting of special event and short term encroachments to civilian staff, outline factors for determining the level of security needed at an event, introduce different special event tiers to reflect the wide range of events, streamline the processing of repeat events, and introduce a review committee to hear appeals of special event permit denials. This Ordinance will further amend Oakland Municipal Code Chapter 12.08 (the Encroachments Ordinance) to align with the changes to Chapter 9.52.