



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, Economic &
Workforce Development
Department

SUBJECT: Status Report on Transfer of Special
Event Permitting

DATE: September 20, 2021

City Administrator Approval

Date: Sep 30, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Status Of The Implementation Of The July 2020 Council Directive To Transfer Special Events Permitting Out Of The Oakland Police Department To Civilian Control.

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 Special Events and Street Closure Ordinances to move the permitting of events from the Oakland Police Department (OPD) to civilian staff. On September 16, 2021, the Rules Committee approved a request by Vice Mayor Kaplan and Councilmember Fife for an informational report on the status of the implementation of the transfer of special event permitting. This report provides a status update and outlines outstanding policy issues for the City Council's consideration.

BACKGROUND / LEGISLATIVE HISTORY

Oakland Special Events Ordinance (Ordinance No. 12132 CMS)

Oakland Municipal Code (OMC) Chapter 9.52 requires anyone conducting a special event to obtain a permit pursuant to the requirements of OMC 9.52. OMC 9.52.040 defines a special event as:

[A]n 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

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- 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 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

Accordingly, 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 departments¹ 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

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-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, during the last year 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. This allocation of additional staff resources will allow staff to implement the requested transfer of activities during the current fiscal year.

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

¹ 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.

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.²

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 2017,³ 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.⁴

ANALYSIS AND POLICY ALTERNATIVES

Current Status of Transitioning Special Event Permitting

In response to Resolution No. 88236 CMS and prior efforts to improve special events, staff has been working on a number of fronts to both facilitate the transition of special events permitting from OPD and improve related programs.

First, staff has convened an interdepartmental working group to streamline the special event permit application into a simplified, one-stop application process for event applicants and to improve internal communication. Currently, event applicants must apply for permits separately with multiple departments for one event. A draft one-stop shop special event permit application and a survey seeking community feedback on the new application are available here: <https://www.oaklandca.gov/news/2021/seeking-community-feedback-on-updates-to-the-special-events-permitting-process>. Staff intends to incorporate feedback received in the fall of 2021 into the final application that will be made available after staff returns to City Council with amendments to OMC Chapter 9.52 to finalize the transition of special event permitting.

Second, staff is finalizing the internal workflow and developing a new permit fee structure to reflect the updated one-stop shop approach to special event permitting.

² 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>

³ 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>

⁴ 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
See Also, Williams, Domingo, Reimagining the City of Oakland's Special Events Permitting and Entertainment, 2021.

Third, to improve transparency and reduce the costs borne by special event permit applicants, staff is researching best practices with regards to security requirements, and exploring approaches to reduce Fire Prevention Bureau costs associated with events.

Outstanding Policy Issues

In addition to the logistical hurdles involved in coordinating multiple City and outside agencies within one permitting process, there are also outstanding policy questions to consider, which are outlined below for the City Council's evaluation.

A. Amending the Definition of a Special Event

The City's current definition of a special event is lengthy and at times broad. Unlike cities that define a special event as something occurring on a public street or on public property, Oakland's definition applies to public and private property alike. Even venues permitted for entertainment, such as cabarets, can be required to 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)). The current Special Events Ordinance also allows the Chief of Police to exempt an event that otherwise qualifies as a special event from obtaining a special event permit if there is evidence it will not impact police services and will not affect public health, safety and welfare (OMC 9.52.040(F)).

In both of the previous two examples, the current definition of a special event offers broad discretion, which can lead to misunderstandings for the public and staff alike. Accordingly, staff can present amendments to the definition of a special event for the City Council's consideration later this year to minimize discretion, increase transparency and avoid disparate outcomes.

B. Special Event Permit and Application Fees

Currently, many departments charge fees to regulate different components of special events, including the Fire and Police Departments, consistent with the Master Fee Schedule. When staff presents updated special event permit and application fees to reflect the new approach and new personnel assigned to special event permitting, staff can propose fees that cover staff's costs or propose fee exemptions/reductions to minimize barriers to entry and encourage certain events. While fees that incorporate City staff costs promote the sustainability of the special events permitting program by not relying on the General Purpose Fund to subsidize staff costs, full cost-recovery may prove expensive for some special event applicants and discourage participation in the regulated process.

The City can also target fee reductions to incentivize certain kinds of events or compliance with permitting requirements. For example, the City can propose reduced fees for events in areas in which the City wishes to promote economic development, or for events that consist of historically marginalized Oakland entrepreneurs. Likewise, through fee reductions for early application submissions, the City can encourage event applicants to plan well in advance of their events, which will provide staff additional time to review special event applications and resolve any issues early-on.

C. Codifying Special Event Security Requirements

Amending the Special Events Ordinance to reflect the transfer of the permitting function from OPD is also an opportunity to codify security requirements for events. Currently, the City's Special Events Ordinance authorizes the Chief of Police to determine whether an event requires any additional police services and to calculate the amount of additional police services required based on what they deem is reasonably necessary for the event. This wide discretion has raised questions about the security assessment, particularly when it results in applicants having to cover the cost of sworn officers on overtime. After completing a review of other cities' approaches to event security requirements, staff can present updates to the Special Events Ordinance's security requirements outlining objective factors that must be present for each level of security required. An objective and transparent fee schedule would allow organizers to better fundraise and plan for event costs and could be structured to reduce barriers and encourage participation from marginalized or under-represented communities.

D. Amending Special Event Permit Application Submission Timeline

Another policy issue to consider is whether to modify the special event permit application timelines. Currently, the City's Special Events Ordinance only requires applicants to submit an application at least twenty-one days before their event, or thirty days if the event will require extraordinary police services (OMC 9.52.050(A)). This timeline does not provide much time for applicants to meet with an interdepartmental team to review the application, proactively identify any issues, and resolve issues prior to the event. Other jurisdictions require special event permit applicants to submit applications much earlier, likely to provide staff and applicants sufficient time to prepare for the event. For example, the City of Seattle requires special event applicants to submit applications ninety days in advance of their event;⁵ the City and County of San Francisco requires street closure applications 90 days in advance of events;⁶ and Austin, Texas has a tiered special event permit system with different application deadlines depending on the size and impact of the event, ranging from three days to 180 days in advance of the event.⁷ Accordingly, staff can present amendments to the current special event permit application deadlines for the City Council's consideration later this year.

E. Amending Short Term Encroachment Permit Requirements

Short term encroachment permits are used for resident-led block parties as well as with special events. Through engagement during the pandemic, staff learned that community members would like the opportunity to obtain block party permits more easily. In addition, as a result of the City's Slow Streets program, the City has learned that there is interest in reimagining the

⁵ <https://www.seattle.gov/special-events-office/handbook/general-guidelines#ProcessingTime>

⁶ <https://sfgov.org/entertainment/sites/default/files/SF%20Outdoor%20Event%20Planning%20%26%20Permitting%20Guide%20-%202007.19.pdf>

⁷ <https://www.austintexas.gov/ace-event-planning-guide/special-event-permitting-process>

public rights of way for multiple purposes. Some existing barriers impeding this reimagining include:

- Unfamiliar permitting language; e.g. the term “encroachment permit” as opposed to “block party permit.”
- Application requirements, such as fees, insurance, and signature requirements.
- The frequency of street closures allowed; only two block parties allowed per year.

Staff welcomes the City Council’s guidance and feedback on these potential opportunities.

FISCAL IMPACT

There is no direct fiscal impact associated with this informational report. More generally, 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 Fund or other identified funding source.

PUBLIC OUTREACH / INTEREST

Staff provided an update on the transition of special event permitting from OPD to the Cultural Affairs Commission at its July 2021 meeting and staff will provide another update at its upcoming September meeting.

COORDINATION

The Special Activity Permits Division in the Department of Economic and Workforce Development consulted with the Budget Bureau, the Oakland Police Department, the Oakland Fire Department, the Department of Transportation, Oakland Public Works, Oakland Parks, Recreation and Youth Development Department, the Department of Race and Equity, 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 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 Receive An Informational Report On The Status Of The Implementation Of The July 2020 Council Directive To Transfer Special Events Permitting Out Of The Oakland Police Department To Civilian Control.

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

Respectfully submitted,



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