

Guidelines for Entertainment Commission Review of One Time Outdoor Event Permit Applications Requesting Extended Duration under Article 15.1 of the Police Code

Background

Passed by the Board on July 27, 2021, the Small Business Recovery Act legislation (BOS File No. [210285](#)) went into effect on September 3, 2021. The goal of this legislation is to support the recovery of small businesses by allowing for more regulatory flexibility in terms of uses, duration of arts and entertainment activity, and permit processes.

The SBRA legislation made these changes to the Police Code Article 15.1:

- Allows temporary events with outdoor entertainment or amplified sound to occur more than 12 days per location per 12-month period with additional review by the Director or the Commission. Previously, the Police Code limited this activity to 12 days per location per year;
- Removes the cap of one permit per month issued for the same premises;
- Gives the 7-member Commission the authority to review, condition, and approve these permit applications with extended duration – or delegate this responsibility to the Director.

Per the legislation, the Entertainment Commission now has the authority to review applications for One Time Outdoor Events that request outdoor entertainment or amplified sound occurring more than 12 days per year at the same premises. In order to successfully implement these new changes, the Entertainment Commission must establish criteria for when and how a One Time Outdoor Event permit application requesting extended duration should be heard by the Commission or should be handled administratively by the Director. The legislation also illustrates the need to align EC processes and criteria for reviewing all extended-duration One Time Outdoor Events, including those requesting outdoor amplified sound and/or entertainment for more than 6 hours per day, or before 9am and/or after 10pm (per Police Code Article 15.1 Section 1060.16), at the same premises.

The Commission adopts the following guidelines to:

(1) delegate to Commission staff the Commission’s authority to determine whether a hearing is required under Article 15.1 Section 1060.16 of Police Code, or whether a determination can be done administratively; and (2) establish the criteria that Commission staff shall use in making such a determination.

Hearing by the Entertainment Commission

Upon receipt of a One Time Outdoor Event Permit application requesting extended duration, the Commission Director or designated staff shall review the application and determine that a Commission hearing is required when the proposed event has any of the following characteristics:

- An event requesting 24 or more days of outdoor amplified sound/entertainment per 12-month period at the same premises. These days can be consecutive or non-consecutive;
- An event requesting to hold outdoor amplified sound/entertainment before 9am or after 10pm (“after hours”). See exception to the “After Hours” rule below for events with precedent.

- An event that the Director recommends that the Commission review based on the event location's history of complaints, code violations, intensity of sound or entertainment activity, and/or density of permitted spaces with outdoor entertainment and/or amplified sound and nearby sensitive receptors.

When a hearing is required, the Commission Director or designated staff shall place the permit application on the Consent Agenda if the proposed event satisfies all of these requirements:

- The event sponsor is a community-serving non-profit organization such as a residents' association, Community Benefit District, merchants' association, or a City agency;
- It is an annual or recurring event and its location and footprint have not substantially changed since the preceding event;
- It has an event footprint of two (2) blocks or less, if applicable;
- The event has no more than two (2) stages, performance areas, or locations with amplified sound equipment

When an application does not satisfy the requirements to be placed on Consent Agenda, it shall be placed on the Regular Agenda.

The Commission hearings shall include the review of any relevant supporting data and materials including, but not limited to, enforcement reports, history of neighbor complaints, Police District recommendations, neighborhood outreach documents, and/or sound measurements conducted by Commission staff. At the hearing, the Commission shall make a determination on the application and provide staff with any permit conditions if and when a permit is approved.

Application Review and Determination by Staff (Hearing Not Required)

All other One Time Outdoor Event Permit applications that do not have any of the above characteristics shall be reviewed administratively by the Director or designated staff and do not require a hearing.

This includes:

- An event requesting more than 6 hours for outdoor amplified sound/entertainment per day;
- An "after hours" event with precedent, defined as an event requesting to hold outdoor amplified sound/entertainment before 9am or after 10pm that satisfies all of the following requirements: 1) it's an annual event; 2) the event's hours, footprint, and activities are substantially similar to the previous year's event, not exceeding a gap of 36 months between events; 3) there were no substantial complaints or violations related to the event during the preceding event; and 4) the applicant provides a plan to conduct meaningful neighborhood outreach to affected neighbors in advance of the event.

Adopted by the Entertainment Commission: December 7, 2021

AYES: 4 ; NAYS: 0 ; ABSENT: 3

Maggie Weiland, Executive Director