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

ADOPTED: 12-07-2021

AMENDED: 10-03-2023

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.

Transfer of Just Add Music (JAM) Permits with ongoing entertainment activity

On September 25, 2020, during the Shelter in Place, the Mayor enacted the 27th Supplement to the Declaration of Emergency that authorized the Entertainment Commission to create the Just Add Music or "JAM" Permit pandemic program as a way to facilitate safer outdoor entertainment at Shared Spaces and other outdoor locations in a manner consistent with Health Order rules. With the expiration of the program's grace period on September 27, 2023 for JAM permits with ongoing activity, and given the City's lengthened timeline for approving permanent "Legislated" Shared Spaces permits and Café Tables and Chairs permits, the Entertainment Commission is seeking an interim solution to sustain entertainment operations for JAM permitted businesses that wish to obtain a "brick and mortar" (BAM) entertainment permit for their outdoor parklet or sidewalk location--which must receive the aforementioned City property approvals before ongoing entertainment may be approved. To get to this ultimate goal of "JAM to BAM," the Entertainment Commission would allow this pool of ongoing JAM

permits to transfer their JAM permit information and permit conditions to a new One Time Outdoor Event Permit with Extended Duration. Upon issuance, this new One Time Outdoor Event Permit would be valid for up to 365 days, or until receiving the brick and mortar entertainment permit, whichever happens first.

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

A) 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:

1. An event requesting 24 or more days of outdoor amplified sound/entertainment per 12-month period at the same premises, excluding JAM permits transferred to One Time Outdoor Event Permits with Extended Duration based on the criteria listed below in the administrative approval section. These days can be consecutive or non-consecutive;
2. 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.
3. 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.

B) 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:

1. The event sponsor is a community-serving non-profit organization such as a residents' association, Community Benefit District, merchants' association, or a City agency;
2. It is an annual or recurring event and its location and footprint have not substantially changed since the preceding event;
3. It has an event footprint of two (2) blocks or less, if applicable;
4. 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 Administrative Determination by Staff (Hearing Not Required)

The following shall be reviewed administratively by the Director or designated staff and do not require a hearing:

A) **One Time Outdoor Event Permit Applications** that do not have any of the above characteristics and that include:

1. An event requesting more than 6 hours for outdoor amplified sound/entertainment per day;
2. 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.
3. An application that was previously approved by the Entertainment Commission at a hearing that is requesting to amend their One Time Outdoor Event permit to add, extend, or change the event hours, dates and/or locations on the condition that the application conduct meaningful neighborhood outreach to affected neighbors at least 10 days prior to first date where this addition or extension or change will occur. A request for an amendment is not required for an event where the permit holder has cancelled or reduced the event hours, dates and/or locations based on their business plans.

B) **JAM Permit Transfers** defined as the original JAM permit application materials and the most recent approved JAM permit and permit conditions, that includes **ALL** of the following:

1. The JAM Permit was issued between September 25, 2020 and March 31, 2023 and remained in good standing up to and including September 27, 2023, the end date of the grace period. A JAM permit in good standing shall be defined as, but shall not be limited to:
    a. There are no current compliance issues including no active Notices of Violation or Citations from the Entertainment Commission and/or any other City agency.
    b. The JAM permit has not been suspended or revoked by the Entertainment Commission;
    c. A JAM permitted premises with a property approval that has not been suspended or revoked by the regulating City land authority, such as SF Dept. of Public Works, SFMTA, or other City land authority; or the JAM permitted premises has not been permanently closed or removed by the owner, the City or some other entity.
2. The most recent JAM Permit or JAM Permit amendment was approved for ongoing outdoor entertainment activity, such as daily, weekly or other recurring timeframe with no defined end date, and not to be confused with any JAM permit issued for one or more temporary events happening on specific dates;

3. JAM Permit holder and their JAM-permitted outdoor premises have received a conditional approval or final approval of their Legislated Shared Spaces Permit and/or Café Tables and Chairs Permit from SF Dept. of Public Works or SFMTA, or a permit or approval from another City land authority to use City-owned property, where applicable;
4. The JAM Permit Transfer Survey completed and signed by the JAM permit holder containing their attestations that they agree 1) to transfer their JAM permit information to a One Time Outdoor Event Permit with Extended Duration; 2) to abide by the conditions of the new One Time Outdoor Event permit; and 3) that there shall be no changes to the time, place, and manner of entertainment activity as stated in their most recent approved JAM permit.

Adopted by the Entertainment Commission: December 7, 2021

AYES: _4__; NAYS: _0__; ABSENT: __3_

Amended by the Entertainment Commission: October 3, 2023

AYES: _6__; NAYS: _0__; ABSENT: __1_

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Maggie Weiland, Executive Director