



Councilmember Ben Bartlett  
City of Berkeley, District 3

CONSENT CALENDAR  
July 10th, 2018

To: Honorable Mayor and Members of the City Council  
From: Councilmember Ben Bartlett & Kriss Worthington  
Subject: Short-term referral to the City Manager to develop the Access to the Arts Ordinance allowing street permits to include artists and musicians interested in leading art shows, art galleries, photography shoots, and related events in public spaces

RECOMMENDATION:

Short-term referral to the City Manager to develop an ordinance allowing musicians and artists to access public spaces according to these conditions:

1. Artists are eligible for this permit by agreeing to and following the current Berkeley Municipal Code (BMC).
2. This permit will allow a spacing of seven foot by seven foot (forty-nine square feet) if a five foot by five foot space (twenty-five square feet) is left unrestricted for pedestrian use and wheelchair or disability accommodations.
3. This permit will be available once a week for applicants.
4. This permit is only applicable for artists and musicians planning a “single or small group impact event.”

BACKGROUND:

City of Berkeley proudly showcases diverse works from local artists and musicians, especially in public or commercial areas such as the Civic Arts Center, the Addison Arts District, Telegraph Ave., and more. Berkeley residents have also benefited from existing public art programs and projects, including the Berkeley Public Library branches and Ohlone Mural. However, many local musicians and artists unintentionally violate city codes and do not know the path to obtaining a legitimate street permit.

Although BMC Chapter 13.44 is not applicable to single and small-group musicians and artists without this ordinance, artists intending on selling their work must undergo street-artist vendor screening first and then obtain a Berkeley Business License in addition to their valid Seller’s Permit issued by the State Board of Equalization. Musicians must also obtain a Noise Permit if they wish to amplify their sound with an operator of their choosing as BMC

states. For public or commercial events greater than seven by seven feet, musicians and artists must still follow the permit regulations outlined by BMC Chapter 13.44.

By giving local artists and musicians a designated and lawful space to showcase their art, Berkeley will be able to support not only local artists and musicians but also bring the community together through local art and events.

FINANCIAL IMPLICATIONS:

Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

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Attachments:

1. Proposed Access to the Arts Ordinance amending Berkeley Municipal Code
2. Street Event Permit Application Form

**ORDINANCE NO. ##### -N.S.**

**ADDING ORDINANCE NO. ##### -N.S. TO THE BERKELEY MUNICIPAL CODE UNDER CHAPTER 13: "PUBLIC PEACE, MORAL AND WELFARE DIVISION XIII— OFFENCES AGAINST THE CITY" TO PERMIT ARTISTS AND MUSICIANS TO HOST EVENTS IN PUBLIC AREAS:**

BE IT ORDAINED by the Council of the City of Berkeley as follows

That a new ordinance is hereby added to the Berkeley Municipal Code to read as follows.

**Chapter 13.44  
ACCESS TO THE ARTS**

**Sections:**

**13.44.020 Definitions**

**13.44.040 Street event permits--Application--Information required--Timing-- Issuance.**

**13.44.080 Street event permit--Content and possession--Rules and regulations.**

**Section 13.44.020: Definitions**

- A. "Block party" means a gathering, sponsored solely by owners, residents or tenants of properties fronting a street, which causes a closure of the entire street, or a portion thereof, to vehicular traffic and use of the street for the gathering.
- B. "Certified Farmers' Market" means a market operated in accordance with regulations established by the California Department of Food and Agriculture, Sections 47000-47026, and California Code Title III, Division 3, Chapter 1, Subchapter 4, Article 6.5, Direct Marketing; and those sections of the Health and Safety Code applicable to Certified Farmers' Markets.
- C. "City Manager" shall mean the City Manager of the City of Berkeley and any designee of the City Manager, except as context dictates otherwise.
- D. "High impact event" means an event (1) occupying all or a portion of a major street, collector or scenic route street, or (2) occupying more than two adjacent blocks of a local street, where a detour, including a temporary detour during only part of the event, is required, and/or (3) where AC Transit, UCB or LBNL buses would need to be re-routed.
- E. "Local streets" means those streets defined in the circulation element of the Berkeley General Plan as local streets.
- F. "Low impact event" means an event occupying all or a portion of not more than two adjacent blocks of a local street (other than a major, collector or scenic route street) where a formalized detour is not required, and where AC Transit, University of California-Berkeley (UCB) or Lawrence Berkeley National Laboratory (LBNL) buses would not have to be re-routed.

- G. "Street event" includes any march, demonstration, assembly, parade, festival, street fair, concert or any other gathering which takes place in the public street or right-of-way, and which is likely to impede, obstruct, or interfere with the normal flow of vehicular or pedestrian traffic. "Street event" does not include "block party". (Ord. 7062-NS § 2 (part), 9/23/08; Ord. 6871-NS § 1 (part), 2005; Ord. 6647-NS § 2, 2001)
- H. "Single or small group impact event" means occupying seven by seven feet of public or commercial space for local art and music events (Ord. ####-NS § 1, 2018)

**13.44.040: Street event permits--Application--Information required--Timing--Issuance.**

- A. Application for a permit for a street event shall be made to the City Manager, or to his/her designee.
- B. Application for (1) high impact events, or (2) street events that involve the use of pyrotechnics or Certified Farmers' Markets shall be made at least 30 business days prior to the street event.
- C. Applications for all other street events shall be made at least 10 business days prior to the street event.
- D. The application for such permit shall be made in writing on a form approved by the City Manager. In order that adequate arrangements may be made for the proper policing of the street event, including the security of participants, and to ensure that the event is conducted in a lawful manner, the application shall contain the following information, as applicable:
  - i. The name, address and telephone number of the applicant, including photo identification. If the street event will be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized head of such organization shall also be supplied. Where a street event will be conducted for, on behalf of or by an organization, the organization will be considered a co-applicant;
  - ii. The name, address and telephone number of all persons who are or will be responsible for the conduct of the street event, including a photo identification of each and effective means by which to reach them during the event, such as cell phone and pager numbers and likely location during the street event;
  - iii. A description of the street event, including its purpose. These requirements are intended to allow the City to anticipate and provide for additional police and other services, if necessary, to protect the safety of participants and bystanders;
  - iv. The date(s) of the street event;
  - v. The estimated times that the street event will start and terminate, including assembly and disassembly involving the use of public property;

- vi. The route of the street event, if applicable, the maximum length of any parade and whether the street event will occupy all or only a portion of the streets proposed to be traveled, if applicable;
- vii. The locations, if any, of the assembly area and dispersal areas of any street event;
- viii. If the dispersal area of a street event is located in another city, the location of such dispersal area, and if the required permit has not been issued by such other city, an alternate route and alternate dispersal area in the City of Berkeley;
- ix. As far as is reasonably practicable, the approximate number of persons; the number and kind of vehicles, animals, musical instruments, sound units, and any other equipment that produces sound or noise during the street event that will be involved in the street event, and whether amplified sound is proposed. In the event the applicant seeks or needs an amplified sound permit, a temporary food permit or a temporary liquor license, the application for the street event should be accompanied by copies of applications for such permits and/or licenses;
- x. The number and location of portable sanitation facilities and other equipment and services necessary to conduct the street event and other equipment and services proposed for participants, if applicable, with due regard for participant and public health and safety;
- xi. A description of arrangements that have been made for first aid or emergency medical services, or both, if applicable;
- xii. A description of arrangements that have been made for security, including the name and telephone number of the lead contact person for the security contractor;
- xiii. Any proposed reasonable rules and regulations necessary for the safe and orderly conduct of the street event and the movement of persons, in furtherance of the goals and purposes of the street event. Such proposed rules may include, but are not limited to, prohibition or other regulation of the use of skates and wheeled vehicles, other than wheelchairs, if necessary for the safety or orderly circulation of persons attending the street event. For purposes of this subdivision, "wheeled vehicles" includes, but is not limited to, bicycles, tricycles, scooters, skateboards or any motorized vehicles of any sort. For purposes of this subdivision, "skates" includes roller skates, rollerblades and in-line skates;
- xiv. Insurance information, if applicable; and
- xv. Such other information, in conformity with the requirements of this Chapter, as the City Manager may reasonably require. (Ord. 7062-NS § 4 (part), 9/23/08; Ord. 6871-NS § 2 (part), 2005; Ord. 6647-NS § 2, 2001)

- E. Applications for “single or group impact” street events shall be made at least 7 business days prior to the street event. (Ord. ####-NS § # (part), 2018)

**13.44.080: Street event permit--Content and possession--Rules and regulations**

- A. A street event permit shall contain the information given in the application and shall impose reasonable time, place, and manner conditions such that the street event will not pose a traffic or safety hazard or unreasonably interfere with fire or police protection services. The conditions imposed shall be in conformity with the requirements of this chapter and shall provide only for such modification of the application's proposed street event as is necessary to achieve compliance with this chapter. Such conditions may include, but are not limited to the following:
- i. Maintain a 20-foot wide emergency access lane at all times.
  - ii. Provide first aid stations and teams within the closed-off area to provide emergency medical aid to participants.
  - iii. Provide barricades of the specified type to close off the involved areas or streets.
  - iv. Provide sufficient signs and directional arrows as specified by the City to divert traffic and arrange for AC Transit and other public transit detours, subject to the approval of the traffic engineer.
  - v. Provide monitors for crowd control and security and establish liaison with the police department concerning the role of the monitors.
  - vi. Distribute flyers throughout the surrounding areas in advance of the event, notifying the affected residents and business people of the street closure.
  - vii. Clean all debris and litter from the street and sidewalk area within four hours after the conclusion of the event.
  - viii. Obey all applicable local, state and federal laws, including but not limited to the requirement for a sound permit under Chapter 13.40 of the Berkeley Municipal Code. However, notwithstanding anything to the contrary in Chapter 13.40, a permit issued under this Chapter may extend the hours for a sound amplification permit issued under Chapter 13.40 at a street event (a) for more than four hours, and (b) until 10:00 p.m.
  - ix. If alcohol is to be served at the event, responsible beverage service practices shall be followed, and the applicant shall provide security adequate to maintain order, as determined by the Chief of Police.
- B. City staff will assist applicants in meeting the conditions imposed by this section.
- C. Applicants shall carry the permit during the street event and shall show it, upon demand, to any City employee.
- D. Applicants may not limit the free distribution of literature at the street event by members of the public who have no formal or direct relationship with the applicant with respect to the presentation of the street event. (Ord.

7062-NS § 6 (part), 9/23/08: Ord. 6871-NS § 3 (part), 2005: Ord. 6647-NS § 2, 2001)

- E. “Single or small group impact” events must leave five by five feet (twenty-five square footage) of unrestricted space for disability accommodations.
2. Street Event Permit Application Form: Low & High Impact Events  
[https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Level\\_3\\_-\\_Special\\_Events\\_Permits/Street%20Event%20-%20Application%20Form.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Special_Events_Permits/Street%20Event%20-%20Application%20Form.pdf)

