

OFFICE OF CITYWIDE EVENTS COORDINATION AND MANAGEMENT

Notice of Final Rulemaking

Notice of final rulemaking relating to street activity permits to promulgate a fee schedule for certain street activity permits

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Office of Citywide Events Coordination and Management by Executive Order No. 105 of 2007, and in accordance with Section 1043 of the Charter, that the Office of Citywide Events Coordination and Management hereby amends Chapter 1 of Title 50 of the Official Compilation of Rules of the City of New York relating to street activity permits. Matter underlined is new. This rule proposal was not included in the regulatory agenda because it was not contemplated at the time of publication of the regulatory agenda.

Written comments regarding the rule were received and a public hearing was held on February 9, 2009, at Barrish Conference Room, 2nd Floor, 22 Reade Street, New York, New York 10007, commencing at 2:00 P.M. Written comments and a summary of oral comments received at the hearing were available for public inspection, within a reasonable time after receipt, between the hours of 9:30 A.M. and 4:30 P.M. at the Office of Citywide Events Coordination and Management, 100 Gold Street, 2nd Floor, New York, New York 10038.

New material is indicated by underlining. Deletions are indicated by brackets.

Section 1. Section 1-01 of Title 50 of the Official Compilation of the Rules of the City of New York is amended to read as follows:

§ 1-01 **Applicability and Definitions**

(a) These rules shall apply to all applications for street activity permits.

(b) For purposes of this chapter, the following terms shall have the following meanings:

“Business improvement district” shall mean an entity established pursuant to article nine of the general municipal law.

“Block party” shall mean a community sponsored street activity requiring the closure of a single block of a street, or a portion thereof, for a single day.

“Commercial or promotional events” shall mean street activities that promote, advertise or introduce a product, corporation, company or other commercial entity or the goods or services of a corporation, company or other commercial entity to either the general public or to a portion of the general public. Commercial or promotional events do not include charitable or cultural events.

“Community sponsor” shall mean a community-based, not-for-profit organization, association, corporation or the like that has an indigenous relationship to the specific street or community where the event is proposed.

“Large events” shall mean street activities that have an extensive impact on the surrounding community and vehicular and/or pedestrian traffic in that they include obstructions or structures such as any temporary platforms, bleachers, reviewing stands, outdoor bandstands and similar structures that cover an area of 120 square feet or more and over 2 feet in height, or any tent or canopy that is more than 400 gross square feet or will be in place for more than 30 days that requires a Department of Building permit; require substantial coordination between SAPO and City agency staff, including the Police Department, Department of Transportation and the Executive Director of Office of Citywide Event Coordination and Management; or use of

Military Island or full closure of a street and/or sidewalk with an emergency vehicle lane or meets all other large event criteria and is held at a pedestrian plaza.

“Medium-sized events” shall mean street activities that impact pedestrian and/or vehicular traffic in that they require significant set up on a sidewalk and curb lane, or pedestrian plaza, including parking for event-related vehicles or similar set up; or include an obstruction such as a tent, canopy, stage platform, bleacher, reviewing stand, outdoor bandstand or similar structure that covers an area of 120 square feet or more and over 2 feet in height, or any structure that is more than 400 gross square feet or will be in place for more than 30 days that requires a Department of Building permit; and requires coordination between SAPO and City agency staff, including the Police Department, Department of Transportation and the Executive Director of the Office of Citywide Event Coordination and Management.

“Pedestrian island” shall mean any public space abutting or separating a roadway or roadways that can accommodate pedestrians.

“Pedestrian plaza” shall mean an area designed by the New York City Department of Transportation for use by pedestrians located fully within the bed of a roadway, which may vary in size and shape; may abut a sidewalk; may be at the same level as the roadway or raised above the level the roadway; may be physically separated from the roadway by curbing, bollards or other barrier; may be treated with special markings and materials; and may contain benches, tables or other facilities for pedestrian use.

“Pedestrian island or plaza event” shall mean street activities that occur on a pedestrian island or plaza and may also include the abutting sidewalk, provided that the event does not have a significant impact on surrounding pedestrian or vehicular traffic.

“Small events” shall mean street activities that occur for a short period of time with low or minimum impact on pedestrian or vehicular traffic normally encountered at the location; require little coordination between SAPO, the Executive Director of the Office of Citywide Event Coordination and Management and the event sponsor; and where the curb lane of a street is used for parking of a promotional vehicle or a vehicle associated with the event or the sidewalk or pedestrian plaza is used for promotional set up or props no larger than a 10 by 10 foot open-sided canopy and allows five feet of unobstructed passage on the sidewalk or pedestrian plaza and remains open for pedestrian use during the event.

“Extra small events” shall mean street activities that occur for a short period of time without significant impact on pedestrian and vehicular traffic and are not designed to draw the attention of passers by; require little coordination between SAPO, the Director of the Office of Citywide Event Coordination and Management and the event sponsor; and where the curb lane of a street is used only for a generator, short-term parking or passenger drop off and the loading or unloading of a vehicle associated with the event or the sidewalk is used for a red carpet and rope or stanchions, banner and a structure no larger than a 10 by 10 feet and where the activity allows at least five feet of unobstructed passage on the sidewalk is available for pedestrian use during the event.

“Street activity” shall mean any activity on a public street, street curb lane, sidewalk or pedestrian island or plaza where the activity will interfere with or obstruct the regular use of the location by pedestrian or vehicular traffic, including but not limited to street fairs, block parties and commercial or promotional activities, but shall not include activities conducted pursuant to a valid film permit, demonstrations or parades.

“Street fair or festival” shall mean a community sponsored street activity requiring a multi-day and/or multi-block street closure.

§ 2. Subdivision b of section 1-10 of Chapter 1 of Title 50 of the Official Compilation of the Rules of the City of New York is amended to read as follows:

(b) The Director of SAPO shall have the authority to assess a reasonable street activity fee for a street activity for which a permit has been granted in an instance where either no reasonable fee has been paid by vendors to participate in the street activity or where the street activity has been financed in whole or in substantial part by other than participating vendors. In such instance, the street activity fee shall be [no greater than that fee which would have been charged in paragraph three of subdivision (a) of this section was applicable] imposed pursuant to section 1-12 of this chapter.

§ 3. Chapter 1 of Title 50 of the Official Compilation of the Rules of the City of New York is amended to add a new section 1-12 to read as follows:

§ 1-12 Street Activity Fees for Commercial or Promotional Events

(a) In addition to the application processing fee set forth in subdivision a of section 1-10 of this chapter, the Director of SAPO shall assess the street activity fees set forth in subdivision c of this section for commercial or promotional events. The fee provided for in this section shall not apply to charitable or other events not encompassed within the definition of commercial or promotional events.

(b) Fees under this section, with the exception of extra small events, shall be assessed on a daily basis. Extra small events shall be assessed on a daily basis for a maximum of \$861.

(c) The Director of SAPO shall charge an applicant a fee in accordance with the following schedule, which shall be in addition to any bonding requirement imposed by the Director or the Department of Sanitation under any other section of this chapter or any other amount or fee imposed by any City agency:

<u>Type of Event</u>	<u>2009</u>	<u>2009 for Pedestrian Islands or Plazas on Broadway between 42nd and 47th Streets, Pedestrian Islands or Plazas on Broadway between 33rd and 36th Streets and Military Island</u>
<u>Extra Small Event (use of sidewalk or curb lane only)</u>	<u>\$220</u>	<u>NA</u>
<u>Extra Small Event (use of sidewalk and curb lane)</u>	<u>\$550</u>	<u>NA</u>
<u>Small Event</u>	<u>\$2,600</u>	<u>\$8,950</u>
<u>Medium Sized Event</u>	<u>\$6,500</u>	<u>\$20,250</u>
<u>Large Event</u>	<u>\$38,500</u>	<u>\$38,500</u>

(e) This schedule does not apply to the following:

(1) sites or events covered by a license, lease or agreement with a third party, unless otherwise provided by a rule issued by the licensor, leasing or contracting agency;

(2) City agency facilities or departmental or administrative offices;

(3) block parties or street fairs covered by section 10-110(a) of this chapter;

(4) demonstrations or other political activity;

(5) parades; or

(6) events of a business improvement district or a non-profit entity operating a pedestrian island or plaza pursuant to a contract or concession from the City if (i) such entity is the sponsor and permittee for the event; and (ii) the event furthers civic, cultural or charitable

purposes or the marketing and promotion of local businesses or a neighborhood within the business improvement district but does not promote a single entity or business within the business improvement district.

STATEMENT OF BASIS AND PURPOSE

The Office of Citywide Event Coordination and Management (CECM), Street Activity Permit Office (SAPO) is charged with administration of the permit system for street activities, block parties and fairs. Under § 1-02 of the current rules, the director of SAPO is authorized to impose conditions upon the issuance of any street activity permit that are necessary to protect the interests of the City, the community and the general public.

A fee scale is needed in order to grant street permits for commercial activities based on the costs the City incurs to process the permit application and ensure the safety of the event. Applications will be assessed fees, that correlate to the size of the event. The fee scale was created by analyzing the administrative and manpower costs incurred by City agencies to review, evaluate and approve or deny an application, as well as provide oversight and security for the event. The agencies involved in these various processes include CECM, SAPO, NYPD, FDNY, DOT and DOB.

In response to comments received, the rules have been clarified to indicate the nature of the types of events subject to the fee scale and to expressly exempt charitable and cultural events. In addition, the fee scale has been adjusted for events held at pedestrian plazas and islands on Broadway in the midtown area in order to address the increased administrative, security and operational costs associated with special events in these locations.