



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: June 12, 2018

Approved

Date

6/13/18

**SUBJECT: ESTABLISHMENT OF AN ALTERNATE SECURITY RATIO FOR
OUTDOOR SPECIAL EVENTS ON PRIVATE PROPERTY THAT
REQUIRE A PUBLIC ENTERTAINMENT PERMIT**

RECOMMENDATION

Approve an ordinance amending Chapter 6.60 of Title 6 of the San Jose Municipal Code to:

1. Establish an alternate security ratio of one private security guard per 50 patrons for the first 100 patrons and one private security guard per each additional 100 patrons thereafter for outdoor special events that require a Public Entertainment Permit and meet the following criteria:
 - Event is held on private property
 - The location of the event does not already hold events with the higher Entertainment Permit security ratio of 1:50
 - Event has obtained any applicable permit under Title 20 of the San Jose Municipal Code
 - Event is a public event and open to all ages
 - Event is exclusively held outdoors
 - Event ends by 10 p.m.
 - Event only serves beer and wine
 - Event serves food or makes food available for sale

2. For events that meet the criteria in Recommendation #1, require that only one owner of the business producing the event and the person that shall be the lead on-site manager when public entertainment is occurring obtain a Public Entertainment Ownership/Management license.

OUTCOME

Approval of staff recommendations outlined in this memorandum will result in the amendment of Chapter 6.60 of Title 6 of the San Jose Municipal Code (“Code”) and establishment of an alternate security ratio for certain outdoor special events on private property that require a Public Entertainment Permit, under Section 6.60.240 of the Code, as well as adjust the requirement for who must obtain a Public Entertainment Ownership/Management license for these events under Section 6.60.060.

BACKGROUND

In a memorandum dated May 24, 2018, Mayor Liccardo and Councilmember Peralez requested that the Rules and Open Government Committee approve a request to agendize deliberation of an alternate security ratio for outdoor public events on private property with music that would be lower than the current ratio prescribed in the Public Entertainment Permit under Chapter 6.60 of the Code. At the May 30, 2018 meeting, the Committee approved this request and agendized the item for the June 19, 2018 City Council meeting. In the May 24, 2018 memorandum, Mayor Liccardo and Councilmember Peralez asked that a private security ratio of 1:200 or 1:250 be considered and narrowed the criteria for potentially eligible events to the following:

- Event producer is not an existing Entertainment Permit holder
- Event to be held on private property is permitted with a Conditional Use Permit
- Event is a public event, open to all ages
- Event exclusively held outdoors
- Event is to end by 10 p.m.
- Event only serves beer and wine
- Event serves food or makes food available for sale, and food comprises the majority of on-site sales

ANALYSIS

Businesses within the City of San Jose that have an occupancy over 100, serve alcohol and want to have public entertainment must obtain a Public Entertainment Permit from the San Jose Police Department as outlined in Chapter 6.60 of Title 6 of the Code. Per Section 6.60.028, Public Entertainment is defined as live entertainment, or as dancing, singing, or audience participation in entertainment. The Public Entertainment Permit also prescribes the required amount of private security that an establishment must maintain while operating as a Public Entertainment Business. This ratio is one private security guard for every 50 patrons.

The Public Entertainment Permit does contain an exception where persons operating a place of public entertainment on outdoor public property owned or controlled by the City do not have to secure a Public Entertainment Permit. Examples of these types of events are the San Jose Jazz

Festival and Music in the Park in Downtown and Dancing on the Avenue in Willow Glen. These events on outdoor public property are permitted through the City's Office of Cultural Affairs. The events team in the Office of Cultural Affairs coordinates with a variety of city departments for special event permitting and operations, including the Police Department for event security requirements. Outdoor special events on public property are not required to have a fixed 1:50 private security ratio, but instead are required to have varying levels of private security based on the nature of event and the number of off-duty police officers that will be present.

The Public Entertainment Permit is currently the only mechanism available to regulate security requirements for outdoor special events on private property that include live music. The operations of outdoor special events on private property are more like those on public property than they are to the operations of brick and mortar businesses like bars and nightclubs, and therefore it is reasonable to have an alternate security ratio in the Public Entertainment Permit for outdoor special events on private property.

Staff concurs with the event criteria outlined in Mayor Liccardo and Councilmember Peralez's May 24, 2018 memo with the following slight modifications:

1. The location of the event does not already hold events with the higher Entertainment Permit security ratio of 1:50
2. The type of Planning Department permit that is acceptable to regulate these events should be expanded to include any applicable permit under Title 20 of the Code; and
3. The requirement that food comprise the majority of on-site sales at an event should be eliminated.

Staff recommends an alternate private security ratio of 1:50 for the first 100 patrons and ratio of 1:100 thereafter. Staff's recommendation of a lower security guard to patron ratio stems from the Police Department's experience with outdoor special events and supplemental analysis of requirements in other cities. Police Department staff contacted colleagues in the Oakland, Sacramento, San Diego, Stockton, Los Angeles and San Francisco police departments and received the following information regarding security staffing levels at outdoor special events on private property:

Oakland

- 1:50 or 1:100 ratio at the discretion of the Oakland Police Department and can require supplemental off-duty police officer staffing for an event.

Sacramento

- Does not utilize private security guards to staff outdoor events. Events are staffed by off-duty police officers at a minimum ratio of 2:1000; however, Sacramento Police can require that private security officers supplement off-duty officers and also require more off-duty officers if the event does not have adequate private security staff.

San Diego

- 1:50 ratio that might be adjusted to 1:75 in the second year of an event that has not experienced any safety problems. If any part of the event extends outside of the private property (e.g. admission lines), the security requirement is 1:20 for that portion of the event.

Stockton

- 1:50 private security, in addition to off-duty police officers based on the event with a minimum of two off-duty officers. If off-duty officers cannot be secured for an event, then three security guards per officer-not-hired is required.

Staff recommends expanding the types of Planning permits that an event can have. Outdoor special events on private property can be permitted by the Planning Department in several ways under Title 20 of the Code. These include not only Conditional Use Permits, but also Planned Development Permits and event permits for temporary outdoor private property special events.

Staff recommends eliminating the requirement that food sales comprise the majority of on-site sales since it is impossible to monitor whether or not this would be true without significant staff time and resources that are not currently available nor anticipated to be available in the immediate future.

Additionally, staff proposes that only one owner of the business producing the event and the lead on-site manager when public entertainment is occurring be required to obtain a Public Entertainment Ownership/Management license. The current Public Entertainment Permit dictates that anyone with an ownership interest (or part of the on-site management team) in a Public Entertainment Business be required to secure a Public Entertainment Ownership/Management license.

Events that require a Public Entertainment Permit but meet the criteria for the alternate security ratio must still comply with all other conditions outlined in the current Public Entertainment Permit under Chapter 6.60 of Title 6 of the Code.

EVALUATION AND FOLLOW-UP

Staff will evaluate the outcome of the proposed alternate security ratio over the next 15 months and will return to City Council in winter 2019 if there are any recommended adjustments to the program.

PUBLIC OUTREACH

The memorandum will be posted on the City's website for the June 19, 2018 City Council agenda.

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COORDINATION

This memorandum has been coordinated with the Police Department and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation is associated with this action.

FISCAL/POLICY ALIGNMENT

The recommendations brought forward in this memorandum do not result in any financial impact to the City of San Jose. The recommendations do align with city staff's easy urbanism and public life strategy goals of encouraging community-initiated events, reducing production costs for outdoor special events and streamlining permit processes.

CEQA

Not A Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

KIM WALESH
Deputy City Manager
Director of Economic Development

For questions please contact Blage Zelalich, Downtown Manager at (408) 535-8172.