

OFFICE OF THE MAYOR

MAYOR'S OFFICE OF CITYWIDE EVENT COORDINATION AND MANAGEMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Mayor's Office of Citywide Event Coordination and Management (OCECM) is establishing rules for the Open Culture Program.

When and where is the Hearing? OCECM will hold a public hearing on the proposed rule online. The public hearing will take place on February, 26th 2021 at 9:00am.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar:
<https://nycmayor.webex.com/nycmayor/j.php?MTID=m6ad15ec6bac954ee8e1d95fcc2db0052> Then follow the prompts.
- When prompted enter the following meeting password: s4aWFrgGW44

Join via phone only:

- To join the meeting by phone, use the following information to connect:
Phone: 1-646-992-2010
Access code: 179 810 2128

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to OCECM through the NYC rules Web site at www.nyc.gov/nycrules.
- **Email.** You can email written comments to saporules@cityhall.nyc.gov.
- **Mail.** You can mail written comments to Stefan Grybauskas, Director of Street Activity Permit Office, Mayor's Office of Citywide Event Coordination and Management, at 253 Broadway, 6th Floor, New York, NY 10007.
- **By Speaking at the Hearing.** Anyone wishing to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing saporules@cityhall.nyc.gov by February 25th at 5:00pm. You can speak for up to three minutes. Each speaker will be timed.

Is there a deadline to submit written comments? Written comments must be received no later than 1pm on February 26, 2021.

Do you need assistance to participate in the Hearing? Please inform OCECM if you need reasonable accommodation, such as a sign language interpreter. Request these services by email or mail at the address given above no later than February 19th at 5:00pm.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at www.nyc.gov/nycrules. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at OCECM.

What authorizes OCECM to make this rule? Section 1043 of the City Charter, Local Law 8 of 2021, as well as Executive Orders No. 100 and No. 105 of 2007 authorize OCECM to make this proposed rule. This proposed rule was not included in OCECM’s regulatory agenda for this Fiscal Year because it was not contemplated when OCECM published the agenda.

Where can I find the OCECM rules? The OCECM rules are in title 50 of the Rules of the City of New York.

What rules govern the rulemaking process? OCECM must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Local Law No. 8 of 2021 directed the Mayor’s Office of Citywide Events Coordination and Management (OCECM) to establish an Open Culture Program, pursuant to which an eligible art and cultural institution or cultural venue may utilize an open space for an artistic or cultural event. The law further directed OCECM to establish eligibility and use guidelines and policies for such program, and promulgate any necessary rules. The proposed rules will establish an application process and create requirements for the Open Culture program, and allow the Street Activity Permit Office (SAPO) within OCECM to issue street activity permits for this program in accordance with Local Law No. 8 of 2021.

OCECM authority for these rules is found in section 1043 of the New York City Charter, Local Law 8 of 2021, and Executive Order Nos. 100 and 105 of 2007.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 1-01 of Chapter 1 of Title 50 of the Rules of the City of New York is amended to insert the following definitions in alphabetical order:

“Art and Cultural Institution” means (i) an art or cultural group, organization or institution within the city of New York that is a member of the cultural institutions group, as determined by the department of cultural affairs, or that is eligible to apply for a grant through the cultural development fund administered by such department, or (ii) a person providing documentation of funding from a borough arts council within the prior two years.

* * *

“Cultural Venue” means an entertainment facility in the city of New York intended or designed to be used for a performance in front of a live audience.

* * *

“Open Culture Event” means an event where the applicant or sponsor is a art and cultural institution or cultural venue and where the activity will take place in the roadway on an Open Culture street and obstruct the regular use of the location by pedestrian or vehicular traffic but shall not include activities conducted pursuant to a parade or construction permit. An Open Culture Event shall not be considered a Street event for the purposes of these rules.

* * *

“Open Culture Street” means a street designated by the Department of Transportation for inclusion in the Open Culture program.

§ 2. Subdivisions (c) and (d) of Section 1-03 of Chapter 1 of Title 50 of the Rules of the City of New York are amended to read as follows:

- (c) Applicants are required to submit the following with applications:
- (1) processing fee;
 - (2) proof of status as a Community sponsor, if applicable;
 - (3) proof of documented not-for-profit tax exempt status with State or federal records, if applicable;
 - (4) proof of status as an Art and Cultural Institution or Cultural Venue, if applying for an Open Culture event;
 - (5) \$1,000,000 liability insurance as required by 50 RCNY § 1-08(b) of this chapter, if applicable, for events other than a Press Conference/Rally/Stationary Demonstration; and
 - [(5)] (6) plans outlining components of the proposed Street event [or], Plaza event, or Open Culture event.
- (d) Applications shall be submitted by the following deadlines unless the event is proposed for a Pedestrian plaza, in which case the deadlines in paragraphs (7)-(9) of this subdivision apply:
- (1) Block party applications must be submitted 60 days prior to event date.
 - (2) Clean-up applications must be submitted 60 days prior to event date.

- (3) Charitable event applications must be submitted 30 days prior to the event date.
- (4) Civic event applications must be submitted 14 days prior to event date.
- (5) Farmer's market applications must be submitted 60 days prior to the event date.
- (6) Health fair applications must be submitted 30 days prior to the event date.
- (7) Pedestrian plaza Level A applications other than for Civic events must be submitted 45 days prior to the event date, except applications for multiple Pedestrian plazas in the same area must be submitted 60 days prior to the event date.
- (8) Pedestrian plaza Level B and C applications other than for Civic events must be submitted 30 days prior to the event date, except applications for multiple Pedestrian plazas in the same area must be submitted 45 days prior to the event date.
- (9) Pedestrian plaza Level D applicants must be submitted 14 days prior to the event date and include usage of only one plaza.
- (10) Press Conference/Rally/Stationary Demonstration applications must be submitted 10 days prior the event date. Where an Applicant can demonstrate that the need for this type of event was not known in time to file an application earlier, the Applicant may submit an application less than 10 days prior to the event date.
- (11) Production event applications must be submitted 10 days prior to the event date.
- (12) Street event, Large applications must be submitted 45 days prior to the event date.
- (13) Street event, Medium applications must be submitted 30 days prior to the event date.
- (14) Street event, Small applications must be submitted 14 days prior to the event date.
- (15) Street fair applications must be submitted no later than December 31st of the year preceding the calendar year for which the proposed street fair will take place. For Street fairs that are only one day and one Block in length, applications will be accepted 90 days prior to the event date.
- (16) Open Culture event applications must be submitted 15 days prior to the event date.

§ 3. Section 1-03 of Chapter 1 of Title 50 of the Rules of the City of New York is amended by adding subdivisions (i) and (j) to read as follows:

(i) For Open Culture Events, the Director of SAPO may establish guidelines that restrict certain event elements, as well as activities that would require additional agency permits.

(j) The Director of SAPO may establish guidelines that set limits on the frequency of Open Culture events from a single applicant or sponsor to ensure that numerous applicants and sponsors are able to utilize Open Streets for Open Culture Events. Such guidelines may take into consideration the concentration of events in certain neighborhoods, and the provision of equitable access to all groups.

§ 4. Subdivisions (b), (d), and (g) of Section 1-04 of Chapter 1 of Title 50 of the Rules of the City of New York are amended to read as follows:

(b) SAPO will make available applications for street fairs, block parties, Open Culture events, farmer's markets and clean-ups to the community board(s) for the community district(s) that encompass(es) the area(s) in which the proposed street fair, block party, farmer's market, or clean-up is to take place.

* * *

(d) There shall be a non-refundable twenty-five dollar processing fee for all applications with the exception of applications for Open Culture events which shall have a fee of twenty dollars. Online submissions may be subject to an additional convenience fee.

* * *

(g) For Street events, Block parties, Farmer's markets, Open Culture events, Clean-ups and for Pedestrian plaza events, SAPO shall notify the community board in which the proposed event will take place that the application is available for agency review and comment on the CEMS database. SAPO shall notify the Pedestrian plaza partner for the Pedestrian plaza in which a proposed Plaza event will take place that the application is available for review in the CEMS database.

§ 5. Subdivisions (a), (b), (c) and (g) of section 1-05 of Chapter 1 of Title 50 of the Rules of the City of New York are amended, and a new subdivision (i) is added to such Section, to read as follows:

§1-05 Approval or Denial of Applications by the Street Activity Permit Office.

(a) The Director of SAPO shall take into consideration any recommendations or comments received from community boards and Pedestrian plaza partners, where applicable, or City agencies or other government agencies in determining whether to approve, approve with conditions, or deny a Street event permit application [or a], Plaza event permit application or Open Culture event permit application. At any time during the review of an application for a street activity permit [or a], Plaza event permit or Open Culture event permit, the Director of SAPO or Executive Director of CECM or his or her designee may require the submission by the Applicant of such additional information that he or she deems necessary to evaluate the application or the qualifications of the Applicant or to implement the requirements of these rules.

(b) The Director shall have the authority to deny an application, to condition the approval of an application, or to revoke a Street event [or], Plaza event or Open Culture event permit, based on the following:

- (1) Applicant's past or present failure to make payment of the processing fee; or
- (2) Applicant's past or present failure to make payment to, or reach satisfactory agreement with all agencies, (e.g., the Department of Sanitation regarding a clean-up deposit); or
- (3) Applicant's past or present failure to present proof that all necessary and proper licenses, permits, insurance or authorizations have been received; or
- (4) Applicant's past or present failure to make payment to, or reach satisfactory agreement with, SAPO regarding a Street event fee [or a], Plaza event fee, or Open Culture Event fee; or
- (5) Applicant's past or present failure to comply with applicable laws or rules; or
- (6) Applicant's past or present failure to comply with a condition imposed on a permit issued previously to the Applicant; or
- (7) Applicant proposes activities that would be in violation of law, rule or regulation; violate subdivisions 1, 4, 5, 6 or 7 of § 240.00 of the Penal Law; or would otherwise present an unreasonable danger to the health or safety of the applicant, event participants or other members of the public or cause damage to public or private property; or

(8) Applicant's past or present failure to provide the Director or Executive Director of CECM with any additional information which he or she has determined to be necessary to evaluate the application or the qualifications of the Applicant; or

(9) Applicant for an Open Culture Event proposes activities that would violate the applicable guidelines for the Open Culture program.

(c) In addition to the provisions of subdivision (b) of this section, the Director shall have the authority to deny an application, condition the approval of an application or revoke a Street event permit [or a] Plaza event permit, or Open Culture event permit on any or all of the following grounds:

(1) The Police Department, the Fire Department, the Department of Sanitation, the Department of Transportation, the Department of Health and Mental Hygiene, the Department of Buildings, the Department of Consumer Affairs, the New York City Transit, the Human Resources Administration, the Department of Finance, the Department of Investigation, the New York State Department of Taxation and Finance, or any other appropriate agency that received a copy of a Street event permit application or a Plaza event application for comment, has notified the Director of SAPO of its disapproval and the reasons therefor; or

(2) the proposed activity, when considered in conjunction with other proposed activities, would produce an excessive burden on the community, City services or City personnel; or

(3) the information provided on the application or forms or documentation required to be submitted is false, misleading, incomplete or inaccurate; or

(4) approval of the application is not in the best interest of the community, City or general public for reasons that may include, but are not limited to, lack of good character, honesty, integrity or financial responsibility of the Applicant. If the Director determines that the application shall be denied on the ground that the Applicant lacks good character, honesty, integrity or financial responsibility, the Director shall notify the Applicant that the application has been denied and shall specify the reason for such denial. The Applicant may thereafter respond to the Director's determination and appeal such denial pursuant to the provisions of 50 RCNY § 1-06.

* * *

(g) The Director will deny applications submitted for Open Culture event permits for any location that is not an Open Culture Street.

(h) Notwithstanding anything in this section, this Director shall not deny an application for a Press Conference/Rally/Stationary Demonstration other than under paragraph 7 of subdivision b of this section or unless the requested time or location conflicts with another permit, in which case the applicant shall be offered an alternative time or location for the Press Conference/Rally/Stationary Demonstration.

(i) Notwithstanding any other time period for review provided by these rules, notification of the approval or denial of an Open Culture event application shall be made within 5 days of receipt of a complete application.

§ 6. The table of Street event fees and Plaza event fees in subdivision (c) of Section 1-08 of Chapter 1 of Title 50 of the Rules of the City of New York is amended to add a new row in alphabetic order to read as follows:

| Event Type | Fee | Deadline |
|------------|-----|----------|
|------------|-----|----------|

| | | |
|--------------------|---------------------|---------|
| *** | *** | *** |
| Open Culture Event | Processing fee only | 15 Days |

NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

100 CHURCH STREET

NEW YORK, NY 10007

212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Open Culture Program Rules

REFERENCE NUMBER: 2021 RG 005

RULEMAKING AGENCY: Office of Citywide Event Coordination and Management

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN L. GOULDEN

Date: January 25, 2021

Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS

253 BROADWAY, 10th FLOOR

NEW YORK, NY 10007

212-788-1400

CERTIFICATION / ANALYSIS

PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Open Culture Program Rules

REFERENCE NUMBER: CECM-SAPO-13

RULEMAKING AGENCY: Citywide Event Coordination Management – Street Activity Permits Office

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

- (iii) Does not provide a cure period because the violations pose significant risks to public health and safety.

/s/ Francisco X. Navarro

Mayor's Office of Operations

January 25, 2021

Date