Legislation Details (With Text)

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Type:	Introduction			**Status:**	Filed (End of Session)
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Title: A Local Law to amend the New York city charter, in relation to updating the open culture program for art and cultural institutions and making the program permanent

Sponsors:

Indexes: Agency Rule-making Required, Report Required

Attachments: 1. Summary of Int. No. 2398, 2. Int. No. 2398, 3. September 9, 2021 - Stated Meeting Agenda with Links to Files, 4. Minutes of the Stated Meeting - September 9, 2021, 5. Hearing Transcript - Stated Meeting 9-9-21, 6. Committee Report 9/14/21, 7. Hearing Testimony 9/14/21, 8. Hearing Transcript 9/14/21

Date	Ver.	Action By	Action	Result
9/9/2021	*	City Council	Introduced by Council	
9/9/2021	*	City Council	Referred to Comm by Council	
9/14/2021	*	Committee on Cultural Affairs, Libraries and International Intergroup Relations	Hearing Held by Committee	
9/14/2021	*	Committee on Cultural Affairs, Libraries and International Intergroup Relations	Laid Over by Committee	
12/31/2021	*	City Council	Filed (End of Session)	

Int. No. 2398

By Council Members Van Bramer, Dinowitz, Vallone, Cumbo, Rodriguez, Brooks-Powers, Powers, Menchaca, Rivera and Riley

A Local Law to amend the New York city charter, in relation to updating the open culture program for art and cultural institutions and making the program permanent

Be it enacted by the Council as follows:

Section 1. Chapter 67 of the New York city charter is amended by adding a new section 2508 to read as follows:

§ 2508. a. Definitions. For the purposes of this section, the following terms have the following

meanings:

Artistic or cultural event. The term “artistic or cultural event” means an event or programming offered or run by an eligible art and cultural institution or a cultural venue, including but not limited to cultural performances, rehearsals and classes.

COVID-19. The term “COVID-19” means the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Cultural venue. The term “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.

Eligible art and cultural institution. The term “eligible 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, (ii) a person providing documentation of funding or who would have been eligible to apply for funding from a borough arts council or the New York city artist corps program within the prior two years, or (iii) a person or an organization with fiscal sponsorship from an art and cultural organization that falls into categories (i) or (ii).

Fiscal sponsorship. The term “fiscal sponsorship” means a relationship between an eligible art and cultural organization or a cultural venue, and a group or individual whose activities fall within the sponsoring organization or venue's mission, that enables the sponsoring organization or venue to apply for the program established by this section, on behalf of such sponsored group or individual.

Office. The term “office” means the mayor’s office of citywide event coordination and management established pursuant to executive order number 105, dated September 17, 2007, or another office or agency designated by the mayor to perform the functions of such office set forth in this section.

Open space. The term “open space” means any portion of a roadway, or outdoor spaces on a sidewalk or curb lane adjacent to an eligible art and cultural institution, designated by the department of transportation, in

consultation with the office, that may be used by an eligible art and cultural institution or cultural venue for an outdoor artistic or cultural event, with at least one such location per community district.

Open streets. The term "open streets" has the same meaning as such term is defined in section 19-107.1 of title 19 of the administrative code of the city of New York.

Program. The term "program" means the open culture program established pursuant to subdivision b of this section.

b. Open culture program. By April 1, 2022, the office, in consultation with the department of transportation, the department of buildings, the police department, the fire department, and any other agency designated by the mayor, shall 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 office shall, in consultation with relevant agencies, establish eligibility and use guidelines and policies for such program, and promulgate any necessary rules; provided, however, that such program shall include the following elements:

1. There shall be no fee for participation by an eligible art and cultural institution or cultural venue in such program, except as provided for in subdivision d of this section.

2. An eligible art and cultural institution or cultural venue utilizing an open space for an artistic or cultural event may produce such event for no charge to an audience, request audience donations before, during or after such event, or charge for tickets; provided, however, that such institution or venue may not physically exclude a member of the public from viewing such event from a publicly accessible location outside the open space assigned for such event.

3. An artistic or cultural event must comply with any applicable requirements on outdoor cultural events and gatherings set by applicable federal or state law or regulations or any applicable directive from the governor or any agency of the state of New York.

4. The program shall provide that permission for an eligible art and cultural institution or cultural venue to use an open space will only require an application to one city agency, and that to the extent practicable such

application place a minimal burden on such institution or venue. A determination that such application is approved or denied shall be made within five business days of application submission by an eligible art and cultural institution or cultural venue.

c. Designation of open spaces. The department of transportation, in consultation with the office, shall designate locations to be open spaces, considering suggestions from council members and factors including but not limited to the effects on traffic, public safety, quality of life, and suitability for use of such locations for performances. Such open space shall include all open streets. The department of transportation shall post online a list of such open spaces by April 1, 2022.

d. Allowable fees. 1. In accordance with paragraph 1 of subdivision b of this section, only an application fee of $20 may be charged for application and participation in the program, provided, however, that applicants seeking a permit to use or operate a sound device or apparatus must pay the applicable fee in accordance with subdivision h of section 10-108 of the administrative code of the city of New York.

2. Nothing in this section shall waive any penalty or fine that may be issued for such event for violation of any applicable rule, law or order.

e. Compliance with other laws. 1. Nothing in this section shall relieve an eligible art and cultural institution or cultural venue from their obligation to adhere to all emergency executive orders issued pursuant to section 24 or 29-a of the executive law, and to all local, state, and federal requirements relating to health and safety. An eligible art and cultural institution or cultural venue participating in the program shall adhere to all applicable guidance and regulations issued by the department of transportation, the department of cultural affairs, the department of buildings, the department of health and mental hygiene, the New York state department of health, and any other agency. Such institution or venue shall also adhere to all local, state and federal requirements relating to accessibility for people with disabilities.

2. The following laws and rules are suspended only to the extent necessary to implement this program, provided that the office or any relevant agency may further limit the waiver of such laws and rules in program

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guidance to effectuate the establishment of the program:

(a) Paragraph a of subdivision 2 of section 16-118 of the administrative code of the city of New York, to the extent such paragraph would prohibit the obstruction of a flagging or curbstone as part of the program.

(b) Subdivision b of section 16-122 of the administrative code of the city of New York, to the extent such subdivision would prohibit movable property to be left, or any obstruction to be erected, in a public place as part of the program.

(c) Section 21-111 of the administrative code of the city of New York, to the extent such section would require an eligible art and cultural institution or cultural venue to obtain a public solicitation license in order to solicit donations as part of this program.

(d) Paragraph r of subdivision 1 of section 1301 of the New York city charter, section 22-205 of the administrative code of the city of New York, headed "Movie-making, telecasting and photography in public places," and chapter 9 of title 43 of the rules of the city of New York, to the extent any such provision may require a permit for any filming or rigging in connection with an event covered by the program.

(e) Sections 2-03 and 2-04 of title 34 of the rules of the city of New York, to the extent such sections would require a permit and a fee for the use of a tent or umbrella as part of the program.

(f) Sections 7-02 and 7-04 of title 34 of the rules of the city of New York, to the extent such provisions would apply to the installation or construction of an improvement or other structure as part of the program.

(g) Chapter 1 of title 50 of the rules of the city of New York, to the extent necessary to: (i) suspend all deadlines and fee schedules for a roadway event occurring as part of the program, (ii) allow the office to modify or eliminate any timeframe or deadline for an agency or applicant to review or comment on an application submitted as part of this program in order that the office may make a timely determination as required by paragraph 4 of subdivision b of this section; and (iii) allow the office to establish application and use guidelines for the program.

f. Reporting. On an annual basis, the office shall submit to the mayor and the speaker of the council and

post on the office's website a report evaluating the open culture program, including any recommendations for modifications or expansion. Such report shall also include, but not be limited to:

1. A list and evaluation of locations that were utilized for open culture over the previous 12 month period, including with any available details related to the physical characteristics of such locations and feedback on the types of artistic or cultural events the location is best suited to, as well as information related to whether any participating location was only available for part of the year;

2. An overview of significant benefits and challenges with the open culture program, and potential solutions to such challenges, including but not limited to the need for barricades or production support;

3. Available information about opportunities to add additional locations to the open culture program, and information on opportunities for eligible art and cultural institutions and cultural venues to suggest additional locations;

4. An overview of any outreach conducted by the office or other city offices related to the open culture program;

5. Information from any surveys or feedback collected from open culture program participants, disaggregated by attendees and permit holders, where applicable, and including information on the demographic make-up of eligible art and cultural institutions and cultural venues;

6. How many eligible art and cultural institutions and cultural venues applied to the open culture program and did not receive a permit, including to the reason why the permit was denied, where such information is available.

7. Any available information related to the economic impact of the open culture program, including but not limited to the economic impact of such program on art and cultural institutions and cultural venues, as well as the economic impact on businesses located in close proximity to the locations that hosted an artistic or cultural event; and

8. An overview of potential funding or opportunities for support for eligible art and cultural institutions

and cultural venues.

8. An overview of potential funding or opportunities for support for eligible art and cultural institutions and cultural venues.

g. Suspension. The department of transportation, upon consultation with the office and the department of health and mental hygiene, may suspend the program upon a determination that use of open space as part of the program may materially impact public health and safety efforts to contain the spread of COVID-19. The office shall promptly provide written notice to the speaker of the council of any such suspension.

§ 8. This local law takes effect on April 1, 2022.

BM
LS # 17460
8/26/21 3:00 pm