



PERMITS & LICENSING FOR FESTIVALS

BY JENNIFER ROBERTS, ESQ., AND NIKI SHADOAN

During the last weekend of September, there were two major music festivals that occurred in Las Vegas – Life is Beautiful and iHeartRadio. Throughout the year, Nevada will also host thousands of people attending Burning Man, Electric Daisy Carnival and a variety of other smaller events. Coordinating such an event is not easy and requires months of advance planning, including booking artists, securing vendors and arranging security. There are also many types of licenses and permits that have to be arranged when organizing a musical or other type of festival.

One of the first decisions to be made about holding a festival is its location. This choice will then help determine the governmental agencies responsible for permitting and approvals. In Nevada, such permitting generally begins at the local governmental level, such as county or municipality. For example, Life is Beautiful will look to the city of Las Vegas for permits to operate the three-day music festival. However, there may be more than one level of government involved in approvals. The Burning Man festival in Black Rock Desert in northern Nevada primarily takes place in Washoe and Pershing counties, and it is also located on federal land. So, Burning Man requires permits and approvals from at least two counties, and it also recently underwent environmental impact analysis by the Bureau of Land Management for a 10-year federal Special Recreation Permit.¹

Promoter's License

First and foremost, the festival organizer may require its own professional and/or concert promoter license. This is often a regulated license (meaning that background investigations are generally required into the owners and key personnel) that allows for the supervision, financing or promotion of business interests of another, such as artists or musicians, for payment.² The promoter's license can take a few months to obtain, so any event organizer should look into such licensing well before any planned event.

Special Event Permit

At the local government level, the festival organizer will require a special event or temporary event permit for outdoor festivities. The local government may differentiate fees and application requirements depending on the anticipated



attendance to the festival. Typically, an application for a special event permit requires that a detailed site plan be included to show access points, barriers, stages, vendor booths, food and beverage locations, tents, parking, security, first aid facilities, toilets, bars and other important festival features.³ The local planning department will need to review and approve the site to make sure it complies with zoning and land use requirements and restrictions. These event permits generally must be submitted at least 30 to 90 days prior to the event, which allows time for the local government to ensure that all various department approvals (i.e., planning, business licensing, fire) are in order.

Vendors

Musical festivals will often be accompanied by businesses that sell products, such as jewelry, artwork or clothing. Some local governments may require each vendor to have a separate business license, while others may require such vendors to obtain some form of temporary merchant permit. Alternatively, the local government may allow the festival organizer to hold a multiple-vendor permit and pay fees depending on the number of booths.

Food and Liquor Sales

For food and alcohol sales by vendors, special considerations come into play. The preparation and service of food will require health permits, while the sale and service of alcohol will generally require a liquor-service permit. In addition, all alcohol must be served and supplied by licensed alcohol caterers who have the proper police work cards and Techniques in Alcohol Management (TAM) cards.

Fire Department

If any part of the festival will have fireworks, pyrotechnics or fire displays, the local government's fire department may require additional permitting for such features. The fire department will usually conduct inspections and confirm that fire safety standards are met for any temporary structures and the event overall.

Security

The festival will need to have an adequate security plan before permits are issued by the local government. The plan will need to identify how many security personnel will be monitoring the event, their stations, their patrol

routes, their identification processes, how access to the event is controlled, safety measures such as bag checks, and other precautions. For private or event security, the staff must be properly licensed by the Private Investigators Licensing Board and the local government, including any police work cards that are required.

Often, festivals will hire active law enforcement officers, such as Las Vegas Metropolitan Police Department, to provide safety and help with traffic control. The event organizer will have to contract with the law enforcement agency, which often means agreeing to pay overtime for participating officers.

Public Streets and Rights-of-Way

If a festival will be restricting public street access or limiting use of public sidewalks, then the local public works department may require permits or approval. This process generally requires a plan review to identify the streets and sidewalks that are affected, as well as the locations of any barricades. As with any of the

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permits required, there will be associated fees to obtain such approvals.

Others

There will generally be other types of licenses, approvals and permits required for holding a festival, depending on the activities taking place. One important element of holding a festival is having the proper insurance. Some jurisdictions may require a minimum amount of general liability insurance and may even require that the government be added as an additional insured or be indemnified. There may also be special insurance policies for weather-related impacts or artist cancellations (i.e., ticket refunds).

Another significant consideration is that if there will be any DJs or artist performances that use copyrighted material, the proper licenses are secured from licensing agencies. For example, each musical artist should certify that they are playing only original work or hold proper licenses from the copyright holder. However, music-licensing agencies such as ASCAP and BMI do issue licenses to music festivals based on attendance and will likely look to enforce copyright protections against the festival operator, even if the artist certifies they have the music license.⁴

Although not a type of permit or approval, festival organizers must be aware of the live entertainment (LET) tax requirement in Nevada. For any live entertainment event, such as concerts, plays, comedy routines and DJs, a 9 percent LET tax on admission is imposed.⁵ This tax is often passed on to the consumer, as tickets or receipts often state that "LET is included." There used to be an exemption from the LET tax for outdoor festivals occurring at licensed gaming establishments, but that disappeared from the law in 2015.

Festivals continue to be a fun and exciting attraction for both locals and tourists visiting Nevada. The preparation and planning for such an event requires significant effort and several types of licenses, permits and approvals from a variety of governmental agencies. Next time you attend one, look around and see all the different features that most likely required some form or permit or approval to be there. **NL**



Musician Emily Haines of Metric performs onstage during day 1 of the 2015 Life Is Beautiful Festival on September 25, 2015, in Las Vegas.

1. See U.S. Department of Interior Notice (June 20, 2018), available at http://pershingcounty.net/event-flyers/2018/DearInterestedParty_20180620.pdf; see also Kate Sullivan, Burning Man event spurs with U.S. government over permit, CNN (Apr. 29, 2019), at <https://www.cnn.com/2019/04/29/politics/burning-man-us-government-permit/index.html>.
2. Clark County Code Section 6.12.822
3. City of Las Vegas, Special Event Permit Application, https://cityoflasvegas.formstack.com/forms/special_event
4. See BMI, Music Licensing for Festivals & Special Events, at <https://www.bmi.com/licensing/entry/533028?q=Festival+Presenterpercent2FPromoter>
5. NRS 368A.200



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