



CITY OF NEW YORK  
**MANHATTAN COMMUNITY BOARD FOUR**

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**LOWELL D. KERN**  
Chair

**JESSE R. BODINE**  
District Manager

December 17, 2020

Hon. Bill de Blasio  
Mayor, City of New York  
City Hall  
New York, NY 10007

Hon. Corey Johnson  
Speaker, NYC Council  
City Hall  
New York, NY 10007

Hon. Laurie Cumbo  
Majority Leader, NYC Council  
City Hall  
New York, NY 10007

Hon. Jimmy Van Bramer  
NYC Council  
City Hall  
New York, NY 10007

Re: City Council Bills 2068 and 2034 - "Open Culture Legislation"

Dear Mayor de Blasio, Speaker Johnson, Majority Leader Cumbo and Council Member Van Bramer,

By a vote of 38 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible to vote, Manhattan Community Board 4 ("MCB4") at its December 2nd, 2020 meeting, voted to express support for two pieces of legislation pending at the New York City Council, Bills 2068 and 2034 (hereinafter "Open Culture Legislation"), sponsored by Majority Leader Laurie Cumbo and Deputy Leader, James Van Bramer, and that they be given the opportunity of floor debate and closure at the City Council. Subsequent to that MCB4 vote, a revised version of the Open Culture Legislation was passed by the New York City Council on December 10, 2020 and will be implemented into law.

**Background:**

On November 9<sup>th</sup>, 2020, MCB4's Art, Culture, Education, and Street Life Committee (ACES) received a presentation from Jack Bernatovicz, Legislative Director for

Councilmember James Van Bramer, Chair of its Cultural Affairs Committee, and Aimee Todoroff, Executive Director of League of Independent Theatre, regarding the pending bills before the City Council which would support the needs of arts organizations that have been severely impacted by the Covid-19 crisis. The ACES committee agreed that Manhattan Community District 4 (“MCD4”)’s cultural organizations not only face the same bleak financial reality as many small businesses, but, in fact, face far greater strictures on their ability to operate. If, and when, theaters and other performance venues are finally allowed to operate, at significantly reduced capacity, the resulting financial burden for organizations that rely on ticket sales become untenable. Many of the organizations that this Board has supported and advocated for over the years, will be forced to close for good without additional forms of relief.

### **The Legislation:**

Bill 2068 uses the “Open Streets” model enacted by the New York City Council and signed into Law by the Mayor. It would allow cultural organizations access to Open Streets and other outdoor public spaces through a streamlined, one-point-of-contact permitting process that would be administered by the Street Activity and Permit Office (“SAPO”), a City agency MCB4 has had a long and cooperative relationship with. As such, MCB4 requests that all Permits issued under this legislation be required to be submitted to Community Boards for advice and/or consent.

Bill 2034, the second part of this proposal, organizes these permitted events into a map-style social media App that all New Yorkers can use to find these events in their community.

### **The Goals of the Legislation:**

#### **The goal of Open Culture is to...**

- Create a one-stop-shop for self-certified outdoor arts & cultural permits in NYC open spaces and parks.
- To allow cultural organizations, entertainment venues, and artists impacted by COVID-19 to put on outdoor performances and rehearsals while traditional spaces are closed due to COVID-19.
- Removing barriers to receiving permits, making the process free and allowing for donation based & ticketed events.

#### **Open Culture would be...**

- Administered by the Mayor's Street Activity Permit Office (“SAPO”), Office of Citywide Event Coordination and Management, in consultation with the Department of Transportation and the Department of Parks and Recreation.
- Free for all cultural organizations, entertainment venues, and artists applying.

- In compliance with all State and City Executive Orders regarding COVID-19 and City agency guidelines for outdoor programming and events.
- In effect till October 31st, 2021.

**Recent Changes in the Legislation:**

As mentioned previously, subsequent to the MCB4 vote, the New York City Council voted to approve a revised version of the bills, which included, but were not limited to, the following changes:

- Open Spaces include NYC Open Streets and additional streets in all five boroughs selected by DOT in consultation with local Council Members.
- Allows DCLA and Borough Arts Council funded cultural organizations and partnering individual artists to put on outdoor performances and rehearsals while traditional spaces are closed due to COVID-19.
- Non-DCLA funded and non-Borough Arts Council funded organizations and individual artists are able to partner with eligible organizations and artists to apply for permits.
- Administered by the Mayor's Office of Citywide Event Coordination and Management, in consultation with the Department of Transportation.
- Participation in the program was to be free, now numerous application fees have been waived, with the lowering of the maximum charge to \$20.

**MCB4 maintains its enthusiastic support of the goals of the Open Culture Legislation and program; however, believes the legislation should be amended as to the following points if, and when, the current Law comes up for reauthorization:**

**The Open Culture Legislation no longer applies to any public space - it only gives access to existing Open Streets.**

While this clause was added to the bill, it has been noted by consultation with the Legislation's sponsors that cultural organizations and individual artists can identify other spaces (not just Open Streets), and with approval of their local council members, have it designated for this program. MCB4 was pleased to hear that this did not close the door for future cultural use of other public outdoor spaces. Upon the expiration of this law on October 31, 2021, MCB4 will be intrigued to learn more about other space options solicited by council members, and utilized by cultural organizations, in the hope that additional public spaces in the City can be opened up for this program in future iterations.

**The program is no longer self-certifying. It will be a standard permit, "fast-tracked" that will run through SAPO.**

MCB4 regrets that the current Open Culture Law does not include Community Board consultation. It was feared by some of the sponsors of this Legislation that many Community Boards in the City who do not have as much experience dealing with cultural activities in their neighborhoods as MCB4 has, would be opposed to same on a NIMBY basis. This Board understands those concerns, but as the Community Board with the highest representation of independent theaters in the country, our experience, expertise and good relations with SAPO, support our contention that Community Boards can and do play a pivotal and helpful role in dealing with permit requests of this nature. When this legislation expires on October 31, 2020, we look forward to working towards its reauthorization, with Community Board consultation becoming part of the regulatory process.

**There is now a (minor) \$20 fee to apply.**

The \$20 fee for the application was added to cover the cost of the SAPO permit. This would allow them to be able to reallocate staff and accommodate the process being “fast tracked” and completed in five (5) business days. The thought behind this nominal fee was to provide accountability and administrative support for following through on any application submitted. However, MCB4 notes that there is currently no fee for restaurants to use Open Streets and would have preferred the process of applying to already fiscally challenged cultural organizations and individual artists to be free of charge for the applicants.

**Limitations placed on organizational access to the program.**

As noted above, non-DCLA funded and non-Borough Arts Council funded organizations and individual artists are able to partner with eligible City-funded organizations and artists in order to apply for permits and participate in Open Street activities.

However, this sponsorship language is unclear. The legislation makes it difficult for organizations and individuals to understand actual access versus perception of access to the program. However, after further discussion with the legislation’s sponsors, MCB4 has concluded that independent theatre companies and individuals can apply via a partnership with an organization that is a member of a Cultural Institutions Group (“CIG”) or Borough Arts Councils (“BAC”) (which does not involve liability concerns, corporate or artistic branding, etc.).

MCB4’s main concern is that smaller organizations and individuals who do not currently have relationships with CIGs, or other entities that currently received City funding may be roadblocked from easy access to this program. This issue has been discussed in depth with Councilmember Van Bramer, and MCB4 now believes that every effort will be made to ensure that independent and non-City-funded cultural entities will be given special consideration by BAC’s in supporting their sponsorship requests.

MCB4 recognizes and is excited that this legislation is the “first of its kind in the nation” and provides for the first time some economic opportunity for our cultural community since the pandemic began. MCB4 looks forward to working with our electeds as other bills which are now being formulated that will continue to expand upon the Open Culture Legislation, such as Bill 2087 that would require the Department of Transportation to create an Open

Spaces program that allows community centers, schools, arts and cultural institutions and religious institutions to apply for a permit to temporarily use outdoor spaces adjacent to such institutions for community programming.

**Why This Law is Important:**

For MCD4’s small cultural organizations to have continued access to the finite amount of available grants from private and public sources - which are often the difference between closing doors and just barely making it even in the best of times - they need to keep presenting work and engaging with their community. The now passed Open Culture Legislation allows them to do just that, which keeps them grant eligible, giving them a legitimate chance to stay open.

As it pertains to Bill 2034, the creation of a social media App that will synthesize existing information that only the City of New York keeps in its databases, would give our cultural organizations and MCB4 a powerful tool to keep our neighborhoods culturally active.

**Conclusion:**

MCB4 believes that this First-in-the-Nation legislation offers a creative, community-based solution for many of the most perplexing challenges faced by our cultural community as we look forward to escaping the epic problems of 2020 and finding equitable solutions in 2021. We have seen restaurants make vibrant use of Open Streets this summer and fall, and any improvements and lessons learned from that legislation can be factored into any subsequent reauthorizations of the recently passed Open Culture law. Council Member Van Bramer and Speaker Cumbo have shown great foresight in bringing outdoor art & entertainment to New York City’s public spaces through this now enacted law, which will help ensure the continued vitality of the heart of NYC, its vibrant culture.

Sincerely,



Lowell D. Kern  
Chair  
Manhattan Community Board 4

Allen Oster  
Co-Chair  
ACES Committee

Kit Tollerson  
Co-Chair  
ACES Committee

CC: Hon. Gale A. Brewer, Manhattan Borough President  
Jack Bernatovicz, Legislative Director, Council Member Jimmy Van Bramer  
Aimee Todoroff, League of Independent Theater  
Anne del Castillo, Commissioner, Mayor’s Office of Media and Entertainment  
Ellyn Canfield, Executive Director, Street Activity Permit Office  
Ed Pincar, Manhattan Borough Commissioner, NYC DOT  
Mitchell J, Silver, Commissioner, NYC DPR