



Title: Policy Regulating **Entertainment in the Public Right-of-Way and Late Night Entertainment**

Policy Number: 1-03

Effective Date: 6/22/2016

Pages: 3

Enabling Actions:

Revised Date:

Approved:

PURPOSE

Entertainment contributes to **the vibrancy of** Los Gatos ~~'vibrancy~~ and adds to the richness of events and gatherings and shall not be regulated other than by Town Code. However, entertainment occurring after 10 p.m. ("late night entertainment"), **or when amplified in the public right-of-way** can compromise the quality of life for Town residents. Therefore, this policy has been created to establish a permitting process and regulations for **entertainment in the public right-of-way and** late night entertainment.

For the purposes of this policy:

Entertainment means any activity conducted for the primary purpose of diverting or entertaining persons. ~~in a premises open to the general public.~~ Such entertainment may include, but shall not be limited to, live musical performances, instrumental or vocal, dance acts, concerts, live shows, ~~amplified music or sound,~~ dancing, DJ, karaoke, jam sessions, **comedy acts, poetry readings, trivia/group games** and/or other similar activities.

Amplified Sound means the entertainment source's volume is increased by any electric, electronic, mechanical, battery, or motor-powered equipment.

Public Right-of-Way means any public property that is not owned by a private entity including but not limited to public streets and roadways regardless of their current status to support moving vehicles, alley ways, sidewalks, parking lots, and public parklets and planter boxes.

Semi-Permanent Parklet means a parklet that has been constructed in the public right-of-way through the Town's Parklet Program, being operated under a public-private partnership between the Town and the adjacent business(es) with a valid operational agreement and certificate of insurance with the Town of Los Gatos.

Entertainment with amplified sound is not permitted within the public right-of-way (including public parks and open spaces, sidewalks, public parklets, parking lots, parking spaces, etc.) or within a semi-permanent parklet located in the public right-of-way without an approved special event permit subject to the provisions of the Town Code.

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Entertainment, with or without amplified sound, completely contained within the private property of a business, including indoors, private patios and private parking lots, may occur until 10 p.m., given the entertainment is compliant with the Town Code and the business' Conditional Use Permit (CUP).

No outdoor entertainment is permitted past 10 p.m.

Late night entertainment is a discretionary privilege and is not to be construed to be a right of development nor run with the land. The following provisions are intended to maintain and enhance the continuing vibrancy and viability of the Town's public and commercial centers while providing reasonable protections to residential neighborhoods in close proximity to those areas.

POLICY AND PROCEDURES

I. Review Processes for Establishments with Late Night Entertainment

1. A late night entertainment permit shall be issued by the Town Manager. The Town Manager may refer any application for a permit to the Development Review Committee for its consideration and determination, which may be appealed to Planning Commission and Town Council. The Town Manager or other deciding body retains the right of approval or denial of each application based on its merits.
2. In determining whether to approve or deny an application for a late night entertainment permit, the following factors will be considered:
 - a. The proposed use of the property is essential or desirable to the public convenience or welfare;
 - b. The proposed use will not impair the integrity and character of the zone;
 - c. The proposed use would not be detrimental to public health, safety or general welfare; and
 - d. The proposed use of the property is in harmony with the applicable guidelines, zoning ordinances, and/or provisions of the general plan.
3. An application and permit for late night entertainment shall be subject to all applicable requirements of the Town Code, and any permit issued pursuant to this policy shall include the following conditions:
 - a. The applicant shall be responsible for ensuring that noise resulting from the entertainment meets all applicable provisions of the Town's noise ordinance. If noise complaints are received by Town Staff, the Town reserves the right to require the applicant/permittee to hire a

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consultant to monitor noise levels to ensure that noise levels are within the parameters established by Town Code for the zone in which entertainment is occurring.

- b. Security measures, which may include the requirement that the applicant employ private security personnel, shall be undertaken and established in and around the entertainment venue to deter unlawful conduct or disturbance to adjacent residential neighborhoods.
 - c. Additional appropriate conditions may be included in any permit as may be determined necessary to protect the public health, safety or general welfare.
4. Any venue with a ~~Conditional Use Permit~~ (CUP) that expressly prohibits entertainment will be required to obtain an amendment to its CUP in order to offer entertainment pursuant to this policy. An applicant's request to amend an existing CUP for the express purpose of adding permitted entertainment will not open the remainder of the CUP to amendment or alteration unless specifically requested by the applicant.
 5. Any permit issued pursuant to this policy may be suspended, modified or revoked by the body that approved the permit following a public hearing if it is determined that sufficient evidence exists that the permitted entertainment is operating, or has operated, in a manner inconsistent with the requirements of its permit, or in a manner that constitutes a public nuisance.

Approved as to Form:

Town Attorney