

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 5, CHAPTER 5.12, SECTION 5.12.010 AND TITLE 12, CHAPTER 12.72, SECTIONS 12.72.030, 12.72.070, 12.72.080, 12.72.090, 12.72.110, 12.72.160, 12.72.170, 12.72.180, 12.72.190, 12.72.210, 12.72.240 AND 12.72.270, AND DELETING TITLE 12, CHAPTER 12.72, SECTION 12.72.130 OF THE STOCKTON MUNICIPAL CODE REGARDING SPECIAL EVENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE

Title 5, Chapter 5.12, Section 5.12.010 of the Stockton Municipal Code is hereby amended to read as follows:

5.12.010 Exemptions.

A. The following are exempted from the payment of a license tax under this title:

1. Any nonprofit institution, corporation, organization or association organized and conducted for non-profit purposes only, when the receipts derived are to be wholly for the benefit of such organization and not in the whole or any part for private gain of any person, or when the receipts are derived wholly from a Special Event permitted by the City of Stockton. This exemption shall not apply to promoters employed by non-profit institutions, corporations, organizations or associations.

2. Any solicitor engaged in interstate commerce when a license tax casts a burden upon such interstate commerce.

3. Any honorable discharged or honorable relieved soldier, sailor, or Marine of the United States who is physically unable to obtain a livelihood by manual labor, and who is a voter of this State, distributing circulars, or hawking, peddling or vending any goods, wares or merchandise owned by said person, except spiritous, malt, vinous or other intoxicating liquor.

4. Any public utility which makes an annual payment to the City under a franchise or similar agreement.

B. Any person, firm, or corporation seeking exemption under this section shall provide to the Finance Director or said Director's representative sufficient evidence of the status upon which exemption is claimed and shall have the right to submit such other evidence as may reasonably bear on such request for exemption.

SECTION II. AMENDMENT OF CODE

Title 12, Chapter 12.72, Sections 12.72.030, 12.72.070, 12.72.080, 12.72.090, 12.72.110, 12.72.130, 12.72.160, 12.72.170, 12.72.180, 12.72.190, 12.72.210, 12.72.240, and 12.72.270 of the Stockton Municipal Code are hereby amended to read as follows:

12.72.030 Definitions.

As used in this chapter:

“Building” means any fully enclosed permanent structure built for the support, shelter, or enclosure of persons, animals, livestock, or property of any kind. It includes pushcarts and mobile vendors (see Stockton Municipal Code, Title 5) for which the sale of goods, food or beverages has been authorized.

“City’s Event Manager” means the City employee designated by the City Manager as “Event Manager.”

“City Manager” means the City employee currently holding the official job title “City Manager” or designee.

“Commercial special event” means any special event organized and conducted by any person or organization that does not qualify as a tax-exempt, non-profit organization.

“Community-based organization” means those organizations with offices located within the Stockton City limits or those providing services or funding benefiting Stockton residents, such as nonprofit, chartered, civic, charitable, fraternal, governmental, and educational institutions.

“Co-sponsorship” means the City is endorsing an event conducted by a community-based organization, and the City Manager has determined that the event meets all of the criteria set forth in Section 12.72.080.

“Dance” means a gathering of persons, consisting of more than 50 individuals, in or on any facilities or private property where dancing is participated in, either as the main purpose or incident to some other purpose and to which the public is invited.

“Demonstration” means any formation, procession or assembly of 100 or more persons which, for the purpose of expressive activity, is:

1. To assemble or travel in unison on any street in a manner that does not comply with normal or usual traffic regulations or controls; or

2. To gather at a public park or other public area or facility.

“Event” includes a special event or a demonstration.

“Event organizer” means any person who conducts, manages, promotes, organizes, aids or solicits attendance at a commercial or non-commercial special event.

“Expressive activity” includes conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. It includes, by way of illustration and without limitation, public oratory, speeches, distribution of literature, protests, demonstrations, rallies, marches, and assemblies.

“Facility(ies)” means any City-owned or operated property or property interest.

“Goods” means goods, wares, personal property, merchandise or any other similar items that are generally sold.

“Gross revenues” means the sum of all revenues received by an event organizer for a special event, including, but not limited to, cash receipts, licensing, sponsorships, television, advertising and similar revenues, and concessions.

“Highway” means a way or place of any nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

“Host organization” means the sponsoring organization that has overall authority of the special event venue.

“Noncommercial special event” means any special event organized and conducted by a person representing an organization that qualifies as a tax-exempt, nonprofit organization.

“Private property” means any property other than that which the City owns or operates or has property interest.

“Private sector” means any individual, group, or organization that does not qualify as a government entity.

“Services” means the use of City employee time required for safe operation of an event.

“Sidewalk” means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

“Sign” means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device.

“Special event” means:

1. Use of any City park, building, street or other facility or private property when an organized activity is conducted, to which the public is invited or admitted, with a common purpose and under the direction or control of a person, and any one or more of the following factors exist:

- a. A fee is charged or money is collected;
- b. Alcohol and/or food will be sold;
- c. A City facility will be closed to general use by the public or use by the general public will be denied in part or in whole;
- d. The location will be used beyond its normal capacity or typical range of uses;
- e. The proposed use is likely to infringe on other users’ activities at that location;
- f. The activity on a street or other public place is impacted in a manner which disrupts the normal or usual traffic patterns, regulations or controls;
- g. The City Manager reasonably determines that the event will result in substantial impact on City resources, facilities or public safety services in response thereto.

2. Examples of special events include, by way of illustration and without limitation, concerts, dances, assemblages, processions, parades, marching band reviews, circuses, fairs, festivals, block parties, community events, mass participation sports (such as, marathons and running events, bicycle races or tours, sports tournaments), spectator sports or other organized activity conducted for a common or collective use.

3. Special events do not include normal City sponsored programs or activities or regular sporting events or tournaments held inside a building or at a facility intended for that purpose.

“Special event permit” means a permit issued pursuant to this chapter.

“Special Event Appeal Committee” means a committee that reviews requests for appeal of decisions made by the City Manager or designee and makes a ruling based on the application of this section and City policies. Members of the Legislative and Environmental Council Committee will serve as the Special Event Appeal Committee.

“Special event venue” means that area for which a special event permit has been issued.

“Special Events Permit Late Fee” means a fee that is paid when a special event application is submitted between 30 to 44 days prior to the scheduled event date. This fee is listed in the City’s current Fee Schedule.

“Street” means a way or place of any nature, publicly maintained and open to use of the public for purposes of vehicular travel. Street includes highway, alley, and other public ways.

“Tax-exempt, nonprofit organization” means an organization that

1. Is exempted from payment of income taxes by Federal or State law;
2. Has been in existence for a minimum of six (6) months preceding the date of application for a special event permit as evidenced by the receipt or confirmation of such status from the Federal or State government;
3. Maintains an office within the City limits of the City or provides services directly to the residents of the City; and
4. plays a major role in event production and/ or receives not less than 80 percent of the event profit.

“Vendor” means any person who sells or offers to sell, any goods, food, or beverages within a special event venue.

12.72.070 Exceptions to special event permit requirement.

A. The following activities are exempt from the special event permit requirement:

1. Activities sponsored and conducted entirely by the City;
2. Activities conducted pursuant to a City Council approved contract between the City and the event organizer;
3. Activities conducted pursuant to the facilities management agreement between the City and any facility manager;
4. Activities conducted by a governmental agency acting within the scope of its authority;
5. Activities conducted at private facilities which have a use permit that allows such activities;
6. Funeral processions by a licensed mortuary;

7. Lawful picketing on sidewalks;
 8. Demonstrations of 100 people or less that do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment, including sound equipment, and comply with traffic and noise laws, provided that:
 - a. No fee or donation is charged or required as a condition of participation in or attendance at such demonstration, and
 - b. The Chief of Police is notified and a special event checklist is completed at least 72 hours in advance of the commencement of the demonstration;
 9. Spontaneous events for the purpose of expressive activity that occur in response to breaking news that has occurred less than 72 hours prior to the event.
- B. Although not required to get a special event permit, an event organizer of an activity exempted pursuant to subsection A of this section, is required to comply with all regulations governing public health and safety.

12.72.080 Co-sponsorship.

- A. Any community-based organization may request, in writing, that the City co-sponsor up to two (2) of their events per year. The events must meet the following criteria:
1. The event must be free and open to the public. This means no admission fee can be charged and no monetary donations can be requested from the public or participants.
 2. No alcohol can be served at the event.
 3. The event must have a cultural, social or educational benefit to the community.
 4. The event cannot be religious or political in nature or seek to support or oppose any religious or political viewpoint.
 5. The event must be held at a City-managed facility.
 6. The organization must follow all of the normal procedures for applying for a special event permit.
- B. If the City Manager determines that the event meets all of the above criteria, the rent for the event facility shall be reduced.

12.72.090 Issuance of a special event permit does not obligate City services.

A. Issuance of a special event permit pursuant to this chapter does not obligate or require the City Manager to provide City services, equipment or personnel in support of an event.

B. The City Manager may provide City services, equipment, or personnel for special events. If City services, equipment, or personnel are provided, as a condition of the permit, the event organizer shall provide the City with cost recovery or revenue sharing, or both, unless the event is an expressive activity event

12.72.110 Time for filing application for special event permit—Time for notifying City Manager of demonstration.

A. For special events at the Stockton Civic Memorial Auditorium, Weber Point Events Center, downtown plazas, and/or any other City park or facility, and on private property when required by Title 16, an application for a special event permit shall be filed with the City Event Manager not less than 45 calendar days, nor more than one (1) year, prior to the date(s) when the special event is proposed to be conducted. Applications can be submitted 30-44 calendar days prior to the special event, but the applicant will be required to remit to the City the Special Events Permit Late Fee according to the City's most current Fee Schedule. Applications will not be accepted for special events within 29 days of the event date.

B. Any individual or organization organizing a demonstration shall submit a special event checklist to the City's Event Manager not less than 72 hours before the time when the individual or organization proposes to conduct the demonstration.

12.72.150 Amendments to an approved application.

A. Once an application has been approved, an amendment shall be filed at least 30 calendar days prior to the event if any of the conditions have changed, including but not limited to:

1. Number of attendees;
2. Admission charged vs. free event;
3. Alcohol vs. non-alcohol event;
4. Loss of insurance coverage;
5. Addition of live music or dance; and

6. Addition of animals, livestock, fireworks, water or air activities or other uses that would significantly change the permit conditions.

B. All changes in conditions necessitating the amendment will be accompanied by appropriate certificates, licenses and fees.

C. The City Manager has the discretion to revoke the permit due to changed conditions.

12.72.160 Conditions affecting the issuance of a special event permit.

A. The City Manager shall issue a special event permit, when all of the conditions listed in this section are met. No event is confirmed or approved until all requirements are met and the City Manager signs the permit. The City Manager may exempt certain requirements based on any or all the following mitigating factors:

1. The event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route;

2. The event will not substantially interrupt the safe and orderly movement of aerial or marine navigation;

3. The event will not cause any unresolvable conflict with construction or development in the public right-of-way or at a public facility;

4. The event will not block traffic lanes or close streets during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. without approval from the Public Works Director and/or the Police Department;

5. The event will not require a great number of police employees to be diverted from their normal duties which would significantly impact the Police Department's ability to respond appropriately to police related calls throughout the remainder of the community;

6. The concentration of persons, animals or vehicles will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets;

7. The event will move from its assembly location to its disbanding location expeditiously and without stopping en route;

8. The event will not substantially interfere with any other special event or demonstration for which a permit has already been issued or with the provision of City services in support of other scheduled events or unscheduled governmental functions;

9. The event will not have any unmitigatable adverse impacts upon residential or business access and traffic circulation in the same general venue;

B. To make the determination under this section, the City Manager shall consider pedestrian and traffic circulation, traffic volume and population density.

12.72.170 City Manager's action on special event permit application.

A. Except as provided in subsections below, the City Manager shall take final action upon a completed application for a special event permit within 15 calendar days.

B. The City Manager is not required to take final action upon any special event permit application prior to 10 months before the event.

C. The City Manager is not required to take final action on an incomplete or untimely special event permit application.

D. Final action on a completed special event permit application shall consist of one of the following:

1. Issuance of a special event permit in accordance with the terms of the application; or,

2. Issuance of a special event permit in accordance with the terms of the application, as modified by mutual agreement between the City Manager and the applicant; or,

3. Denial of the special event permit application by the City Manager.

E. Notwithstanding the City Manager's acceptance of a completed application, no date shall be considered confirmed until a special event permit is actually issued.

1. Notification of approval of the special event permit is made by the City's Event Manager or designee to the applicant by sending a copy of the permit to the applicant within 20 calendar days of completion of the application.

2. Reservations for events on City property or in public rights-of-way are considered confirmed upon receipt of the special event permit.

12.72.180 Reasons for denial of a special event permit.

A. The City Manager shall deny a special event permit to an applicant who has not:

1. Provided for the services of a sufficient number of personnel authorized to direct traffic who are trained, certified and appointed pursuant to Section 10.04.080 and other relevant sections; or

2. Provided sufficient monitors or security guards and/or specialized “event staff” for crowd control and safety; or

3. Provided sufficient safety, health or sanitation equipment, services or facilities that are reasonably necessary to ensure that the event will be conducted with due regard for public health and the safety of participants and/or attendees; or

4. Provided sufficient off-site parking or shuttle service, or both, when required to minimize any substantial adverse impacts on general parking and traffic circulation in the vicinity of the event.

5. Provided adequate proof of insurance covering the event.

6. Completed all requirements determined by the City at least 20 calendar days prior to the event. The list of requirements will be provided by the City to the applicant once the application has been reviewed. These requirements may include, but are not limited to: insurance certificates, list of vendors participating in event, site map, etc.

B. The City Manager shall deny a special event permit if in the City Manager’s opinion:

1. The event will create a high probability of violent disorderly conduct likely to endanger public safety or to result in significant property damage; or unreasonably disrupt the surrounding uses and/or inhabitants;

2. The event will violate public health or safety laws;

3. The event fails to conform to the requirements of law or duly established Council policy;

4. The applicant demonstrates an inability or unwillingness to conduct an event pursuant to the terms and conditions of this chapter;

5. The applicant makes materially false statements or omits relevant information in his or her application;

6. The applicant has failed to conduct a previously authorized or exempted special event in accordance with the law or the terms of a permit, or both;

7. The applicant has not obtained the approval of any other public agency within whose jurisdiction the special event or portion thereof will occur; or

8. The applicant has failed to provide an adequate first aid or emergency medical services plan based on event risk factors.

C. The City Manager shall deny a special event permit to an applicant who has failed to comply with any term of this chapter, or with any condition of a special event permit previously issued to the applicant.

12.72.190 Denial of a special event permit application—Appeals from denial.

A. If the City Manager denies the application for the special event permit pursuant to Section 12.72.180, above, the City Manager shall notify the applicant in writing, by U.S. Mail, courier, e-mail or fax.

B. The denial of a special event permit may be appealed to the Special Event Appeal Committee. The applicant may appeal the denial of a special event permit. The applicant may not appeal a condition set forth within a permit that is required by the City, unless the special event permit is denied.

C. An appeal shall be made in writing within 5 calendar days of the date of the written denial by filing a letter with the City Clerk setting forth the grounds for appeal and paying the appeal fee set by City Council resolution.

D. The Special Event Appeal Committee shall hear the appeal within 10 calendar days of the filing of the appeal. A majority vote is required to overturn the City Manager's denial. The applicant must submit supporting documentation to justify its request to overturn the City Manager's decision. If the Special Event Appeal Committee grants the appeal of the special event permit denial, supporting justification in accordance with this ordinance (Chapter 12.72 Special Events) must be established at the hearing by the committee members, and shall become incorporated into their special event permit.

E. The decision of the Special Event Appeal Committee to grant or deny the appeal shall be final and shall constitute the exhaustion of the applicant's administrative remedy.

F. For events involving expressive activity the appeal procedure above shall be replaced with the expedited judicial review found in California Code of Civil Procedure Section 1094.8.

12.72.210 Insurance required to conduct special event.

A. The event organizer of a special event must provide and obtain comprehensive general liability insurance in the amount deemed appropriate by the Risk Manager to protect the City against loss from liability imposed by law for damages on account of bodily injury and/or property damage arising from any aspect of the event. Such insurance shall name the City, its officers, employees, and agents and, as required, any other public entity involved in the event, as additional insured on a

separate endorsement maintained for the duration of the event. Notice of limitation, reduction or cancellation of insurance coverage shall be provided immediately to the City by the carrier and the event organizer.

B. The insurance required by subsection A of this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this code and is to be provided for the benefit of the City and not as a duty, express or implied, to provide insurance protection for spectators or participants.

C. The event organizer's current effective insurance information submitted by means of a certificate of insurance, along with necessary endorsements, shall be filed with the Risk Services Office at least 45 calendar days before the event, or purchased through Risk Services, or the application for the event will be deemed incomplete.

D. The Event Organizer shall maintain a current certificate of insurance and required additional insurance endorsement(s) for all vendors, suppliers, and entertainers. The Event Organizer shall file with the City's Event Manager's Office at least 45 days before the event, or purchased through the City's Event Manager, or vendors, suppliers, and entertainers will not be able to participate at the event.

E. The City will accept a "blanket event" insurance policy acquired by the event's promoter and covering all vendors, suppliers and entertainers which shall be indicated on the certificate of insurance under the "description of operations" and approved by the Risk Services Office at least 45 days before the event. When this blanket policy is filed the individual endorsements for the City from each vendor shall not be required to be filed with the Risk Services Office.

F. Insurance shall not be required for expressive activity events

12.72.240 Cost recovery for special events.

A. For any special event (except spontaneous events for the purpose of expressive activity), the City Manager shall charge for the actual cost of:

1. The salaries of City personnel involved in permit processing, public safety, event traffic control, fire safety or other facility or event support; and
2. The use of City equipment and other nonpersonnel expenses.
3. A \$250 cleaning deposit. The deposit will be returned if the venue site is left as found.

B. The City Manager shall require payment of costs required pursuant to subsection A of this section, at the time the completed application is approved.

C. If the event organizer/host organization fails to comply with Section 12.72.140(M), or any condition referring to the same subject matter, the event organizer/host organization will be billed for actual City costs for clean-up and repair of the area or route occasioned by the event. If the event organizer/host organization fails to comply with Section 12.72.140(M), under a previously issued special event permit, the City Manager may require the event organizer/host organization to deposit adequate surety in the form of cash or bond to assure performance of said requirement and/or condition.

12.72.270 Review and accounting procedures.

A. An event organizer/host organization of a commercial special event, where revenue sharing occurs pursuant to agreement between the event organizer/host organization and the City, shall make payment and provide a final financial statement to the City Manager no later than 30 calendar days after the event. This is required for a determination of fees and revenues to be paid to the City where a negotiated percentage of gross revenues, a combination of percentage of gross revenues and a flat fee, or any other revenue sharing agreement the City Manager deems to be in the best interest of the City.

B. Upon the request of the City Manager, an event organizer/host organization of a noncommercial special event, located on City property, shall provide a final financial statement no later than 30 calendar days after the request.

C. The City Manager is authorized to make determinations as to the commercial status of an event and, with the advice and assistance of the City Auditor, to promulgate additional standards and procedures for cost accounting to implement this section.

D. At any time during normal business hours, and as often as the City Manager or City Auditor deems necessary, all data and records pertaining to the event shall be made available to the City for examination at reasonable locations within the City. The City shall be allowed to audit, examine, and make excerpts or transcripts from the records. The records shall be retained for a period of not less than three (3) years following the event unless the City agrees to an earlier disposition.

SECTION III. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION IV. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: _____

EFFECTIVE: _____

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton

ANTHONY SILVA
Mayor of the City of Stockton