

ORDINANCE NUMBER O- 18439 (NEW SERIES)

ADOPTED ON NOV 18 1997

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER II, ARTICLE 2, DIVISION 2 BY REPEALING SECTION 22.0207; AND BY CREATING A NEW DIVISION 40, SECTIONS 22.4001, 22.4002, 22.4003, 22.4004, 22.4005, 22.4006, 22.4007, 22.4008, 22.4009, 22.4010, 22.4011, 22.4012, 22.4013, 22.4014, 22.4015, 22.4016, 22.4017, 22.4018, 22.4019, 22.4020, 22.4021, 22.4022, 22.4023, 22.4024, 22.4025, 22.4026, 22.4027, 22.4028, 22.4029, 22.4030, 22.4031, 22.4032, 22.4033, 22.4034, 22.4035, 22.4036, 22.4037, AND 22.4038; AND AMENDING CHAPTER V, ARTICLE 4, DIVISION 1 BY AMENDING SECTION 54.0105 AND BY REPEALING SECTION 54.0106; ALL RELATING TO SPECIAL EVENTS ; AND AMENDING CHAPTER V, ARTICLE 9.5, DIVISION 2; CHAPTER VI, ARTICLE 3, DIVISION 1; AND CHAPTER VIII, ARTICLE 1, SECTION 81.03, AND ARTICLE 2, SECTION 82.23 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS BY RENUMBERING SECTION 22.0207 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ CHAPTER II, ARTICLE 2, DIVISION 40.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 2, Division 2 of the San Diego Municipal Code is hereby amended by repealing Section 22.0207.

Section 2. That Chapter II, Article 2 of the San Diego Municipal Code is hereby amended by creating a new Division 40, Sections 22.4001, 22.4002, 22.4003, 22.4004, 22.4005, 22.4006, 22.4007, 22.4008, 22.4009, 22.4010, 22.4011, 22.4012, 22.4013, 22.4014, 22.4015, 22.4016, 22.4017, 22.4018, 22.4019, 22.4020, 22.4021, 22.4022, 22.4023, 22.4024, 22.4025, 22.4026,

22.4027, 22.4028, 22.4029, 22.4030, 22.4031, 22.4032, 22.4033, 22.4034, 22.4035, 22.4036, 22.4037, and 22.4038, to read as follows:

DIVISION 40

SPECIAL EVENTS

SEC. 22.4001 Title

This Division shall be known as the "Special Events Ordinance."

SEC. 22.4002 Purpose

It is the purpose of the Council to establish a process for permitting Special Events conducted by the private sector to use City Streets, facilities or services. It is recognized that these Special Events enhance the San Diego lifestyle and provide benefits to the citizens through the creation of unique venues for expression and entertainment that are not normally provided as a part of governmental services. Additionally, it is recognized that Tax-exempt Non-profit Organizations that benefit the community are central to the quality of life in San Diego and that they often develop through their Special Events the resources to provide essential services to the citizens of the City and County of San Diego. By recognizing Special Event Venues, it is further intended to supplement land use regulations, to provide a coordinated process for the regulation of certain activities to be conducted in conjunction with Special Events, to ensure the health and safety of patrons of Special Events, to prohibit illegal activity from occurring within Special Event Venues, and to protect the rights and interests granted a Special Event Permit holder. It is further intended to create a mechanism for cost recovery and revenue sharing for Commercial Special Events without having an adverse effect

on those Events that contribute to the community. It is also the intent of the Council to protect the rights of its citizens to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating Commercial Special Events that have an impact upon public facilities and services.

SEC. 22.4003 Definitions

As used in this Division:

“Building” means any fully enclosed permanent structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. It includes push carts or sidewalk cafes, as defined in Chapter X of this Code, for which the sale of Goods, food or beverages has been authorized.

“Commercial Special Event” means any Special Event organized and conducted by any Person that does not qualify as a Tax-exempt Non-profit Organization

“Demonstration” means any formation, procession or assembly of seventy-five (75) or more persons which, for the purpose of Expressive Activity, is:

- (a) 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,
- (b) to gather at a public park or other public area.

“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 public oratory and distribution of literature.

“Goods” means goods, wares, personal property, merchandise, or any other similar item which is 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.

“Non-Commercial Special Event” means any Special Event organized and conducted by a Person that qualifies as a Tax-exempt Non-profit Organization.

“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:

(a) any organized formation, parade, procession or assembly consisting of seventy-five (75) or more Persons, and which may include animals,

vehicles or any combination thereof, which is to assemble or travel in unison on any Street which does not comply with normal or usual traffic regulations or controls; or,

(b) any organized assemblage of seventy-five (75) or more Persons at any public beach or public park which is to gather for a common purpose under the direction and control of a Person; or,

(c) any other organized activity conducted by a Person for a common or collective use, purpose or benefit which involves the use of, or has an impact on, other public property or facilities and the provision of City public safety services in response thereto.

(d) Examples of Special Events include concerts, parades, circuses, fairs, festivals, block parties, community events, mass participation sports (such as, marathons and running Events, bicycle races or tours, "over-the-line" tournaments), or spectator sports (such as, football, basketball and baseball games, golf tournaments or hydroplane or boat races).

"Special Event Permit" means a permit issued under this Division.

"Special Event Venue" means that area for which a Special Event Permit has been issued.

"Street" means a way or place of whatever nature, publicly maintained and open to use of the public for purposes of vehicular travel. Street includes highway.

"Tax-exempt Non-profit Organization" means an organization that is exempted from payment of income taxes by federal or state law and which has

been in existence for a minimum of six (6) months preceding the date of application for a Special Event Permit.

“Vendor” means any Person who sells or offers to sell any Goods, food, or beverages within a Special Event Venue.

SEC. 22.4004 Special Event Permit Required

(a) Except as provided in this Division, for any Person to conduct, promote, manage, aid, or solicit attendance at, a Special Event, the Person shall obtain a Special Event Permit from the City Manager.

(b) The City Manager is authorized to issue permits for Special Events occurring within the city limits of the City pursuant to the procedures established in this Division. The City Manager is authorized to determine the Special Event Venue. The City Manager shall set reasonable boundaries for the Special Event Venue, balancing the Special Event requirements and public health, safety, and welfare. The City Manager is authorized to coordinate the issuance of a Special Event Permit with other public agencies through whose jurisdiction or property the Event or portion thereof occurs and to issue a Special Event Permit upon the concurrence of other public agencies involved.

SEC. 22.4005 Exceptions to Special Event Permit Requirement

(a) A Special Event Permit is not required for any activity listed in Section 22.4005(c).

(b) Although not required to get a Special Event Permit, an Event Organizer of an activity exempted pursuant to Section 22.4005(c) is required to comply with general regulations governing public safety or health.

(c) The following activities are exempt from the Special Event Permit requirement:

(1) funeral processions by a licensed mortuary;

(2) activities conducted by a governmental agency acting within the scope of its authority;

(3) lawful picketing on Sidewalks;

(4) Demonstrations that do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment (other than sound equipment), 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 at least thirty-six (36) hours in advance of the commencement of the Demonstration; and,

(5) film-making activities conducted under the aegis of the Motion Picture and Television Bureau of the San Diego Chamber of Commerce, or successor agency, when provisions for cost recovery for City support services have been made.

SEC. 22.4006 Issuance of Special Event Permit Does Not Obligate City Services

(a) Issuance of a Special Event Permit pursuant to this Division does not obligate or require the City Manager to provide City services, equipment or personnel in support of an Event.

(b) Subject to approval of the City Council, the City Manager may provide City services, equipment, or personnel for Commercial Special Events. Approval of the City Council is not required for the City Manager to provide City services, equipment, or personnel for a Commercial Special Event, if the City Manager makes provisions with the Event Organizer for cost recovery or revenue sharing, or both, from the Event.

(c) Without Council authorization, the City Manager may provide City services, equipment or personnel in direct support of a Non-commercial Special Event, if the cost to the City does not exceed three thousand dollars (\$3,000.00) for the entire Event, if the cost is within budget limitations, and if the City Manager finds that a public purpose will be served. The City Manager may find that a public purpose is served if all four of the factors provided in Section 22.4006(c)(1)--(4) are met:

(1) The Event is organized and conducted by a Tax-exempt Non-profit Organization which operates from or provides services within the City or County of San Diego; and,

(2) the Event provides a benefit to the general public; and,

(3) the Event includes participation by the general public (notwithstanding an admission or participation fee); and,

(4) provision of City services will result in improved crowd or Event control and general public safety.

SEC. 22.4007 Priority of Special Event Permit Issuance

Except for Events sponsored by the City, and wherever possible, priority shall be given for the issuance of a Special Event Permit to local Tax-exempt Non-profit Organizations operating in and providing services to the citizens of the City or County of San Diego.

SEC. 22.4008 Use of City Seal or Name

(a) The City Manager is authorized to issue a Special Event Permit for any Event whose title or theme will use the City seal or the words "The City of San Diego," "City of San Diego," or any similar combination or facsimile that would reasonably imply an official endorsement of the Event by the City, provided that revenue sharing by the Event Organizer is required as a condition of such approval.

(b) Prior authorization from the City Manager is required for an Event Organizer to use the words "The City of San Diego" or "City of San Diego," or a facsimile of the seal of the City of San Diego, in the title of a Special Event.

SEC. 22.4009 Time for Filing Application for Special Event Permit; Time for Notifying City Manager of Demonstration

(a) Except for Special Events at the San Diego Convention Center, the Convention and Performing Arts Center, or QUALCOMM Stadium, an application for a Special Event Permit shall be filed with the City Manager not less than sixty (60) calendar days, nor more than two (2) years, before the time when it is proposed to conduct the Special Event.

(b) Applications for Special Events at City public facilities, such as the San Diego Convention Center, the Convention and Performing Arts Center, and QUALCOMM Stadium shall be submitted in accordance with the time limits and procedures established by the City Manager for such facilities.

(c) Any Person organizing a Demonstration shall notify the City Manager not less than ten (10) calendar days before the time when it is proposed to conduct the Demonstration.

SEC. 22.4010 When Application for Special Event Permit Is Deemed Complete

An application for a Special Event Permit is deemed completed when the applicant has provided all of the information required in Section 22.4012, including any additional information required by the City Manager, and the application has been approved by any City department designated by the City Manager.

SEC. 22.4011 Date of Special Event Not Confirmed Until Permit Issued

Notwithstanding the City Manager's acceptance of a completed application, no date shall be considered confirmed until a Special Event Permit is issued.

SEC. 22.4012 Content of Special Event Permit Application

The application for a Special Event Permit may include the following:

- (a) the name, address and telephone number of the applicant; and,
- (b) a certification that the applicant will be financially responsible for any City fees or costs that may be imposed for the Event; and,

- (c) the name, address and telephone number of the Person chiefly responsible for organizing and conducting the Special Event; and,
- (d) the name, address and telephone number of the Event Organizer, if any, and the chief officer of the Event Organizer, if any; and,
- (e) if the Special Event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for the Special Event Permit shall file a written communication from such organization:
 - (1) authorizing the applicant to apply for the Special Event Permit on its behalf; and,
 - (2) certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the Event; and,
- (f) a copy of the tax exemption letter issued for any applicant claiming to be a Tax- exempt Non-profit Organization; and,
- (g) a statement of the purpose of the Special Event; and,
- (h) a statement of the fees to be charged for the Special Event; and,
- (i) the proposed location for the Special Event; and,
- (j) the date and times when the Special Event is to be conducted; and,
- (k) the approximate times when assembly for, and disbanding of, the Special Event is to take place; and,
- (l) the proposed locations of the assembly or production area; and,
- (m) the specific proposed site or route, including a map and written narrative of the route; and,

- (n) the proposed site of any reviewing stands; and,
 - (o) the proposed site for any disbanding area; and,
 - p) proposed alternate routes, sites or times, where applicable; and,
 - (q) the approximate number of Persons, animals or vehicles that will constitute the Special Event; and,
 - (r) the kinds of animals anticipated to be part of the Special Event;
- and,
- (s) a description of the types of vehicles to be used in the Special Event; and,
 - (t) the number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise; and,
 - (u) the number and location of portable sanitation facilities; and,
 - (v) other equipment or services necessary to conduct the Event with due regard for participant and public health and safety; and,
 - (w) the number of Persons proposed or required to monitor or facilitate the Special Event and provide spectator or participant control and direction for Events using City Streets, Sidewalks, or facilities; and,
 - (x) provisions for first aid or emergency medical services, or both, based on Event risk factors; and,
 - (y) insurance and surety bond information; and,
 - (z) any special or unusual requirements that may be imposed or created by virtue of the proposed Event activity; and,
 - (aa) any other information required by the City Manager.

SEC. 22.4013 Conditions Affecting the Issuance of a Special Event Permit

(a) The City Manager may issue a Special Event Permit, when all of the conditions listed in Sections 22.4013(a)(1) - (10) are met.

(1) The Event will not substantially interrupt the safe and orderly movement of aerial or marine navigation.

(2) The Event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route.

(3) The Event will not cause an 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. on any of the following Streets:

(A) Streets designated as "Primary Arterials" or "Major Streets" on the City Engineering Department's Intercommunity Street System Map and as defined in Council Policy 600-4, "Standards System Map and as defined in Council Policy 600-4, "Standards for Rights-of-Way and Improvements Installed Therein."

(B) Streets designated as "Preferred Streets" on the Preferred Street System Map pursuant to Council Policy 600-32, "Preferred Street System for Centre City."

(C) Streets or portions of Streets determined to be "principal commuter routes" by the City's traffic engineering staff, based on

historic traffic density and congestion during peak commuter hours or based on an average daily trip (a.d.t.) basis of five thousand (5,000) vehicles or more.

(5) The Event will not require the diversion of a great number of police employees from their normal duties, thereby preventing reasonable police protection to the remainder of the City.

(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 enroute.

(8) The Event will not substantially interfere with any other Special Event or Demonstration for which a permit has already been granted or with the provision of City services in support of other scheduled Events or unscheduled governmental functions such as visits of chiefs of state.

(9) The Event will not have an unmitigatable adverse impact upon residential or business access and traffic circulation in the same general venue.

(10) If the Event is a marathon, it will not occur within thirty (30) calendar days of another marathon.

(b) To make the determination under Section 22.4013(a), the City Manager shall consider pedestrian and traffic circulation, traffic volume and population density.

(c) In order to ensure that the conditions in Section 22.4013(a) are met, the City Manager may place conditions on the Special Event Permit.

SEC. 22.4014 Reasons for Denial of a Special Event Permit

(a) The City Manager may deny a Special Event Permit to an applicant who has not:

(1) provided for the services of a sufficient number of traffic controllers trained, certified and appointed pursuant to Section 81.03; or,

(2) provided sufficient monitors 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 safety; 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; or,

(5) met all of the requirements for submitting an application for a Special Event Permit.

(b) The City Manager may deny a Special Event Permit if in the City Manager's opinion:

(1) the Event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage; or,

(2) the Event will violate public health or safety laws; or,

- (3) the Event fails to conform to the requirements of law or duly established Council Policy; or,
- (4) the applicant demonstrates an inability or unwillingness to conduct an Event pursuant to the terms and conditions of this Division; or,
- (5) the applicant has failed to conduct a previously authorized or exempted Special Event in accordance with law or the terms of a permit, or both; or,
- (6) the Event will require the exclusive use of beach or park areas during any period from Memorial Day through Labor Day in a manner which will adversely impact upon the reasonable use or access to those areas by the general public; or,
- (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 may deny a Special Event Permit to an applicant who has failed to comply with any term of this Division, or with any condition of a Special Event Permit previously issued to the applicant.

SEC. 22.4015 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 22.4014, he or she shall notify the applicant in writing as soon as is reasonably practical.

(b) The denial of a Special Event Permit may be appealed to the Committee on Public Safety and Neighborhood Services of the City Council, or successor committee.

(c) An appeal shall be made in writing within five (5) calendar days of the date of the written denial. An appeal is made by filing a written petition with the City Clerk setting forth the grounds for appeal.

(d) The Public Safety and Neighborhood Services Committee, or successor committee, shall hear an appeal as soon as is reasonably practicable.

(e) The decision of the Public Safety and Neighborhood Services Committee, or successor committee, to grant or deny the appeal shall constitute the exhaustion of the applicant's administrative remedy.

SEC. 22.0416 Display of Special Event Permit Required

A copy of the Special Event Permit shall be displayed in the Special Event Venue in the method prescribed by the City Manager applicable to the particular Event and shall be exhibited upon demand of any City official.

SEC. 22.4017 Contents of Special Event Permit

A Special Event Permit may contain the following information or conditions:

- (a) the location of the Special Event Venue, which may be identified by a map attached to the Special Event Permit;
- (b) the date, assembly area, time for assembly and starting time of the Special Event;
- (c) the specific route plan to the Special Event;
- (d) the minimum and maximum speeds of the Special Event;
- (e) the number and types of Persons, animals and vehicles, the number of bands, other musical units and equipment capable of producing sound, if any, and limitations thereon pertaining to noise abatement;
- (f) the maximum interval of space to be maintained between booths or other structures to be used for the Special Event;
- (g) the portion of the Street and Sidewalk that is to be occupied by the Event and the location of reviewing or audience stands, if any;
- (h) the number and location of traffic controllers, monitors, other support personnel and equipment and barricades to be furnished by the Special Event Organizer;
- (i) the area and time for disbanding;
- (j) conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of Vendors and related sales activity by the Event Organizer during the Special Event;
- (k) provisions for any required emergency medical services; and,
- (l) such other information and conditions as are reasonably necessary for the conduct of the Special Event and the enforcement of this Division,

including the requirement for the on-site presence of the Event Organizer or its designated representative for all Event coordination and management purposes.

(m) As a condition of the issuance of a Special Event Permit, the applicant shall be required to make adequate provisions for cleaning-up the area or route of the Event both during and upon completion of the Event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the Event.

SEC. 22.4018 City Manager's Action on Special Event Permit Application

(a) Except as provided in Section 22.4018(b), the City Manager shall take final action upon a completed application for a Special Event Permit as soon as practicable.

(b) The City Manager is not required to take final action upon any Special Event Permit application prior to one hundred (100) calendar days before the Event.

(c) The City Manager is not required to take final action on an incomplete or untimely Special Event Permit application.

(d) The City Manager is not required to process more than one (1) application for a Special Event Permit per applicant during any two-week period.

(e) The City Manager is not required to take final action upon two (2) or more Special Event Permit applications submitted by the same applicant unless two (2) or more weeks shall have elapsed between the respective dates of submission of each.

(f) Final action on a completed Special Event Permit application shall consist of one (1) 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.

SEC. 22.4019 Insurance Required to Conduct Special Event

(a) The Event Organizer of a Special Event must possess or obtain comprehensive general liability insurance to protect the City against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the Event. Such insurance shall name The City of San Diego, its officers, employees, and agents and, as required, any other public entity involved in the Event, as additional insureds. Insurance coverage must be maintained for the duration of the Event. Notice of cancellation shall be provided immediately to the City.

(b) Except as provided in Section 22.0419(c), comprehensive general liability insurance coverage required by Section 22.4019(a) shall be in a combined single limit of at least one million dollars (\$1,000,000).

(c) If the Special Event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the City

Manager may authorize a greater or lesser amount of coverage than required by Sections 22.4019(a) and (b), or may require a particular type of insurance coverage different from that specified in Sections 22.4019(a) and (b).

(d) The insurance required by Section 22.4019(a) 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.

(e) The Event Organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the City Manager at least thirty (30) calendar days before the Event, unless the City Manager for good cause modifies the filing requirements.

SEC. 22.4020 Waiver of Insurance Requirements

(a) Except for Special Events where the sale of alcoholic beverages is authorized or for traffic control permits issued in conjunction with a Special Event pursuant to Section 81.03 of this Code, the insurance requirements of Section 22.4019 may be waived by the City Manager. In making the determination of whether to waive insurance, the City Manager shall consider the factors provided in Sections 22.4020(a)(1) - (6).

(1) Whether the Special Event is Expressive Activity protected by the First Amendment;

(2) whether the applicant or an officer of the sponsoring organization of a non-athletic Event has filed a verified statement that he or she believes the Event's purpose is First Amendment expression;

(3) whether the applicant or officer of the sponsoring organization has determined that the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression;

(4) whether it is objectively impossible to obtain insurance coverage;

(5) whether the Event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks or pyrotechnics; or,

(6) whether a fee or donation is charged or required as a condition of admission or participation in the Event.

(b) The statement required by Section 22.4020(a)(3) shall include the name and address of one (1) insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(c) To claim that it is objectively impossible to obtain insurance coverage pursuant to Section 22.0420(a)(4), the applicant shall submit a statement from at least two (2) independent licensed insurance brokers demonstrating the insurance is unavailable in the market place.

(d) Even though insurance is waived, the City Manager may require the Event Organizer of a Special Event to defend, indemnify and hold harmless the City from any claim or liability arising from the Event.

SEC. 22.4021 Revocation of Special Event Permit

(a) Any Special Event Permit issued pursuant to this Division is subject to revocation pursuant to Section 22.4021.

(b) A Special Event Permit may be revoked if the City Manager determines that:

(1) the Event cannot be conducted without violating the standards or conditions for Special Event Permit issuance; or,

(2) the Event is being conducted in violation of any condition of the Special Event Permit; or

(3) the Event poses a threat to health or safety; or

(4) the Event Organizer or any Person associated with the Event has failed to obtain any other permit required pursuant to this Code; or

(5) the Special Event Permit was issued in error or contrary to law.

(c) Except as provided in Section 22.4021(d), notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(d) If there is an emergency requiring immediate revocation of a Special Event Permit, the City Manager may notify the permit holder verbally of the revocation.

(e) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of Special Event Permits pursuant to Section 22.4018.

SEC 22.4022 Cost Recovery for Commercial Special Events

(a) Except as otherwise provided in this Division, or when funded or waived by Council resolution or ordinance, for any Commercial Special Event the City Manager shall charge for the actual cost of:

(1) the salaries of City personnel involved in permit processing, Event traffic control, fire safety or other facility or Event support; and

(2) the use of City equipment and other non-personnel expense.

(b) The City Manager shall require payment of fees required pursuant to Section 22.4022(a), or a reasonable estimate thereof, at the time the completed application is approved, unless the City Manager for good cause extends time for payment.

(c) If the Event Organizer fails to comply with Section 22.4017(m), the Event Organizer 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 failed to comply with Section 22.4017(m) under a previously issued Special Event Permit, the City Manager may require the Event Organizer to deposit adequate surety in the form of cash or bond.

SEC. 22.4023 Effect of Receipt of Donations on Status of Tax-Exempt Non-Profit Organizations

A Tax exempt Non-profit Organization sponsoring an Event may acknowledge the receipt of cash or in-kind services or goods, donations, prizes or other consideration from for-profit organizations without causing the Event to be considered a Commercial Special Event. Such acknowledgment may include use of

the name, trademark, service mark or logo of such a for-profit organization in the name or title of the Event or the prominent appearance of the same in advertising or on collateral material associated with the Event.

SEC. 22.4024 Revenue Sharing

(a) An Event Organizer of a Commercial Special Event shall pay the City a negotiated percentage of Gross Revenues, a flat fee, 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 interests of the City.

(b) Cost recovery under Section 22.4022 shall not be required of Commercial Special Events where payment for such services has been negotiated by the City Manager within a revenue sharing agreement with the City.

(c) An Event Organizer of a Commercial Special Event shall not be required to enter into a revenue sharing agreement with the City where the City has funded or waived cost recovery pursuant to Section 22.4022, or where the City Manager determines that it is in the best interests of the City not to require a revenue sharing agreement.

SEC. 22.4025 Audits and Accounting Procedures.

(a) An Event Organizer of a Commercial Special Event shall make payment and provide a final financial statement audited by a certified public accountant to the City Manager no later than thirty (30) calendar days after the Event for the fees and revenues to be paid to the City.

(b) Upon the request of the City Manager, an Event Organizer of a Non-commercial Special Event shall provide a final financial statement audited by

a certified public accountant no later than thirty (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 and Comptroller, to promulgate additional standards and procedures for cost accounting to implement Section 22.4025.

(d) At any time during normal business hours, and as often as the City Manager or City Auditor and Comptroller 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 or County of San Diego. The City will 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.

SEC 22.4026 Delegation of City Manager's Authority

The City Manager may delegate any or all of his or her functions under this Division to his or her deputies or subordinates.

SEC. 22.4027 City Manager Authorized to Adopt Rules and Regulations

The City Manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this Division and the provisions of law that pertain to the conduct and operation of a Special Event or Demonstration.

SEC. 22.4028 Enforcement Authority

The City Manager is authorized to administer and enforce the provisions of this Division. The City Manager and his or her designated Enforcement Officials may exercise any enforcement powers as set forth in Division 1, Article 2, Chapter I of the Code.

SEC. 22.4029 Authorized Special Event Vendors

(a) The issuance of a Special Event Permit confers upon the permit holder or Event Organizer the right to control and regulate the sale of Goods, food and beverages within the Special Event Venue in accordance with the terms and conditions of the Special Event Permit.

(b) Vendors authorized to sell Goods, food, or beverages in the Special Event Venue shall display their authorization in the manner required by the City Manager. Only Vendors displaying the required authorization shall be allowed to sell Goods, food, or beverages in the Special Event Venue.

SEC. 22.4030 Strict Liability Offenses

Violations of this Division shall be treated as strict liability offenses regardless of intent.

SEC. 22.4031 Unlawful to Conduct or Promote Attendance at Special Event without Permit

(a) It is unlawful to conduct a Special Event without a Special Event Permit as required pursuant to this Division.

(b) It is unlawful for any Person to conduct, promote, or manage any Special Event for which a Special Event Permit has not been issued.

SEC. 22.4032 Other Permits and Licenses

(a) The issuance of a Special Event Permit does not relieve any Person from the obligation to obtain any other permit or license required pursuant to this Code.

(b) The issuance of any other permit or license issued pursuant to this Code does not relieve any person from the obligation to obtain a Special Event Permit pursuant to this Division.

SEC. 22.4033 Unlawful to Sell Goods in Special Event Venue without Authorization

It is unlawful for any Person to sell, or offer to sell, any Goods, food, or beverages in a Special Event Venue, except:

(a) from any Building; or,

(b) from any tent, booth or temporary structure expressly authorized pursuant to a Special Event Permit; or,

(c) as authorized pursuant to a conditional use permit pursuant to Chapter X of this Code.

SEC. 22.4034 Unlawful Selling of Tickets to Special Event within Special Event Venue

It is unlawful for any Person to sell for profit, or offer to sell for profit, any ticket of admission to a Special Event within a Special Event Venue, except:

(a) from any ticket office, booth, or other similar place established and maintained for the purpose of selling tickets; and,

(b) with the express authorization of the City Manager pursuant to a Special Event Permit.

SEC. 22.4035 Unlawful to Display Signs in Special Event Venue

It is unlawful for any Person to place, post, paint, erect, display, secure, or maintain any Sign or advertising in violation of those provisions of Chapter IX and X of this Code, regulating Signs and advertising displays.

SEC. 22.4036 Unlawful to Use City Name without Authorization

It is unlawful for any Event Organizer to use in the title of an Event the words "The City of San Diego" or "City of San Diego," or a facsimile of the seal of the City of San Diego, without the City's authorization.

SEC. 22.4037 Unlawful to Interfere with Special Event or Demonstration

It is unlawful for any Person to obstruct, impede or interfere with any authorized assembly, Person, vehicle or animal participating in a Demonstration or an Event for which a Special Event Permit has been issued.

SEC. 22.4038 Cost Recovery for Unlawful Special Event

Whenever a Commercial or Non-commercial Special Event is conducted without a Special Event Permit when one is required, or an Event is conducted in violation of the terms of an issued Special Event Permit, the Event Organizer shall be responsible for, and the City Manager shall charge the Event Organizer for, all City costs incurred for personnel and equipment for a public safety response caused or necessitated by the adverse impacts of the Event, or the violation of the Special Event Permit, upon public safety.

Section 3. That Chapter V, Article 4, Division 1 of the San Diego Municipal Code be and it is hereby amended by amending Section 54.0105 to read as follows:

SEC. 54.0105 Sidewalk Sales and Displays Prohibited

(a) Except as provided in Section 54.0105(b) and (c), it is unlawful for any Person to place, or allow to remain, any goods, wares, baggage, personal property or merchandise on any sidewalk or curb, between the outer edge of the sidewalk or curb and the property line.

(b) Section 54.0105(a) does not:

(1) prohibit any Person from loading or unloading goods, wares, or merchandise in front of the Person's place of business;

(2) prohibit any Person from leaving any goods, wares or merchandise on any sidewalk for the length of time necessary for loading or unloading them;

(3) prohibit any Person from loading or unloading attended baggage or personal property into or from a means of transportation.

(c) A sidewalk sale may be permitted in a Special Event Venue pursuant to a Special Event Permit issued under Chapter II, Article 2, Division 40 of this Code.

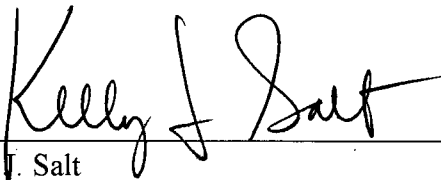
Section 4. That Chapter V, Article 4, Division 1 of the San Diego Municipal Code be and is hereby amended by repealing Section 54.0106.

Section 5. That Chapter V, Article 9.5, Division 2,; Chapter VI, Article 3, Division 1; and Chapter VIII, Articles 1, Division 3; and 2 of the San Diego Municipal Code are hereby amended by changing the reference to Section 22.0207 appearing within the text of those sections to read as shown:

1. In Section 59.5.0202, from "pursuant to Section 22.0207 of this Code" to "pursuant to Chapter II, Article 2, Division 40 of this Code";
2. In Section 63.0102, from "permitted by Section 22.0207" to "permitted by Chapter II, Article 2, Division 40 of this Code";
3. In Section 63.0103(j), from "subject to the provisions of Chapter II, Article 2, Section 22.0207, of this Code" to "subject to Chapter II, Article 2, Division 40 of this Code";
4. In Section 81.03, from "pursuant to Section 22.0207 of this Code" to "subject to Chapter II, Article 2, Division 40 of this Code";
5. In Section 82.23, from "pursuant to the provisions of Section 22.0207 of this Code" to "pursuant to Chapter II, Article 2, Division 40 of this Code".

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Kelly J. Salt
Deputy City Attorney

KJS:pev
10/16/97
10/23/97 Cor. Copy
Or. Dept. Spec. Proj./Super Bowl
O-98-31
Form=o&t.frm

CORRECTED COPY

REDLINE - NEW LANGUAGE
STRIKEOUT - OLD LANGUAGE

(SO-98-31)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER II, ARTICLE 2, DIVISION 2 BY DELETING SECTION 22.0207; BY CREATING A NEW DIVISION 40, SECTIONS 22.4001, 22.4002, 22.4003, 22.4004, 22.4005, 22.4006, 22.4007, 22.4008, 22.4009, 22.4010, 22.4011, 22.4012, 22.4013, 22.4014, 22.4015, 22.4016, 22.4017, 22.4018, 22.4019, 22.4020, 22.4021, 22.4022, 22.4023, 22.4024, 22.4025, 22.4026, 22.4027, 22.4028, 22.4029, 22.4030, 22.4031, 22.4032, 22.4033, 22.4034, 22.4035, 22.4036, 22.4037, AND 22.4038; AND AMENDING CHAPTER V, ARTICLE 4, DIVISION 1 BY AMENDING SECTION 54.0105 AND BY REPEALING SECTION 54.0106, ALL RELATING TO SPECIAL EVENTS; AND AMENDING CHAPTER V, ARTICLE 9.5, DIVISION 2; CHAPTER VI, ARTICLE 3, DIVISION 1; AND CHAPTER VIII, ARTICLE 1, SECTION 81.03, AND ARTICLE 2, SECTION 82.23 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS BY RENUMBERING SECTION 22.0207 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ CHAPTER II, ARTICLE 2, DIVISION 40.

~~SEC. 22.0207 Special Events~~

~~(a) Title~~

~~This section shall be known as the "Special Events Ordinance."~~

~~(b) Purpose and Intent~~

~~It is the purpose and intent of the Council to establish a process for permitting special events conducted by the private to use City streets, facilities or services. It is recognized that these special events enhance the San Diego lifestyle and provide benefits to the citizens through the creation of unique venues for expression and entertainment that are not normally provided as a part of governmental services. Additionally, it is recognized that non-profit tax~~

~~exempt organizations which benefit the community are central to the quality of life in San Diego and that they often develop through their special events the resources to provide essential services to the citizens of the City and County of San Diego. It is further intended to create a mechanism for cost recovery and revenue sharing for commercial special events without adversely impacting those events that contribute to the community. It is also the intent of the Council to protect the rights of its citizens to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable, time, place and manner regulation thereof within the overall context of rationally regulating private sector events which impact upon public facilities and services.~~

~~————— (c) ——— Definitions~~

~~————— 1. ——— As used in this section, "special event" means: 1) any organized formation, parade, procession or assembly consisting of one hundred (100) or more persons, and which may include animals, vehicles or any combination thereof, which is to assemble or travel in unison and with a common purpose upon any public street, highway, alley, sidewalk or other public way which does not comply with normal or usual traffic regulations or controls; 2) any organized assemblage of 1,000 or more persons at any public beach or public park which is to gather for a common purpose under the direction and control of a responsible person or agency; or 3) any other organized activity conducted by an individual, group or entity for a common or collective use, purpose or benefit which involves the use of or impacts upon other public property or facilities and the provision of City public safety services in response thereto.~~

~~————— Examples of special events within this definition include but are not limited to parades, circuses, fairs, community events, mass participation sports (marathons and running~~

~~events, bicycle races or tours, "over-the-line" tournaments, etc.), or spectator sports (football, basketball and baseball games, golf tournaments or hydroplane or boat races, etc.).~~

~~2. As used in this section, "demonstration" means any formation, procession or assembly of one hundred (100) or more persons which is to assemble or travel in unison and with a common purpose upon any public street or other public way in a manner which does not comply with normal or usual traffic regulations or controls or which is to gather at a public park or other public area, for the purpose of "expressive activity", as defined herein.~~

~~3. The term "expressive activity," as used in this section, refers to 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 public oratory and distribution of literature.~~

~~4. The term "event" includes special events and demonstrations.~~

~~5. As used herein, a "tax exempt non-profit organization" is one that is exempted from payment of income taxes by federal or state law and which has been in existence for a minimum of six (6) months preceding the date of application for an event.~~

~~(d) Permit required~~

~~1. Except as provided in this section, it is unlawful to conduct, promote, manage, aid, solicit attendance at or participate in any special event or demonstration without a written permit from the City Manager.~~

~~2. The City Manager is authorized to issue permits for special events and demonstrations occurring within the city limits of the City of San Diego pursuant to the procedures established in this section. The City Manager is authorized to coordinate the issuance~~

~~of a permit for such events with other public agencies through whose jurisdiction or property such event or portion thereof shall occur and to issue a permit upon the concurrence of other public agencies involved. The issuance of a permit shall confer upon the permittee the right to control and regulate concessions within the venue of the event in accordance with the terms and conditions set forth in the permit.~~

~~3. Exceptions - A permit shall not be required for the below listed activities, although the City Manager may issue a permit or similar certificate to an organizer who requests it. An exempted activity is required to comply with general regulations governing public safety or health.~~

~~i. Funeral processions by a licensed mortuary.~~

~~ii. Activities conducted by a governmental agency acting within the scope of its authority.~~

~~iii. Lawful picketing on the sidewalks.~~

~~iv. Demonstrations which do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment (other than sound equipment), provided no fee or donation is charged or required as a condition of participation in or attendance at such demonstration and provided further that the Chief of Police is notified at least thirty-six (36) hours in advance of the commencement of said demonstration.~~

~~v. Film making activities conducted under the aegis of the Motion Picture and Television Bureau of the San Diego Chamber of Commerce, when provisions for cost recovery for City support services have been made.~~

~~4. The procedures or requirements of this section shall not affect or supersede the provisions of law or the requirements for the issuance of fireworks, structural, electrical or~~

~~other permits by City departments prescribed elsewhere in this Code, when such permits are otherwise required because of a particular condition or requirement of the special event or demonstration. The procedures and standards of this section shall be used to the extent practicable or necessary to supplement procedures for the issuance of permits pursuant to Sections 54.0106, 59.5.0202, 63.0102(b)(24), 81.03 or 82.23 of this code.~~

~~5. The issuance of the permit pursuant to this section does not obligate or require the City Manager to provide City services, equipment or personnel in support of an event. The City Manager is authorized to provide City services, equipment or personnel in direct support of a non-commercial special event the costs of which do not exceed \$3,000.00, without Council authorization, if within budget limitations, provided the City Manager finds that a public purpose will be served. Factors to be considered in determining that a public purpose is served shall include the fact that the event is organized and conducted by a tax exempt non-profit organization which operates from or provides services within the City or County of San Diego, that it provides a benefit to the general public, that it does not exclude participation by the general public (notwithstanding an admission or participation fee) and that the City services provided will result in improved crowd or event control and general public safety. Except for events sponsored by the City, and wherever possible, priority shall be given in permit issuance to local tax exempt non-profit organizations operating in and providing services to the citizens of the City or County of San Diego. The provision of City services, equipment or personnel for commercial special events shall be subject to the approval of the City Council, unless the City Manager makes provisions with the event organizers for cost recovery or revenue sharing, or both, from the event.~~

~~6. The City Manager is authorized to issue a permit to any event whose title or theme will use the City seal or the words "The City of San Diego," "City of San Diego," or any~~

~~similar combination or facsimile which would reasonably imply an official endorsement of the event by the City of San Diego, provided that revenue sharing by the event organizer or sponsor is required as a condition of such approval. It shall be unlawful for any organizer to use in the title of an event the words "The City of San Diego" or "City of San Diego," or a facsimile of the seal of the City of San Diego, without such authorization.~~

~~(c) Application for Permit~~

~~1. Except for special events at the San Diego Convention Center, the Convention and Performing Arts Center and the San Diego Jack Murphy Stadium, an application for a special event permit shall be filed with the City Manager not less than sixty (60) days, nor more than two (2) years, before the time when it is proposed to conduct the special event.~~

~~2. An application for a demonstration permit shall be filed with the City Manager not less than ten (10) calendar days before the time when it is proposed to conduct the demonstration. However, a permit may be issued if a completed application is filed less than ten (10) calendar days before the time for commencement of the demonstration unless the City Manager finds that there is an unresolvable conflict in schedule with some other event or that the time of filing does not allow sufficient time to the City Manager to reasonably prepare for the demonstration pursuant to the standards set forth in subsection (g).~~

~~3. Applications for special events at the San Diego Convention Center, the Convention and Performing Arts Center and the San Diego Jack Murphy Stadium shall be submitted in accordance with the time limits and procedures established by the City Manager for such facilities.~~

~~4. An application is deemed completed when the applicant has provided all of the information required in subsection (f) and the application has been routed or cleared through~~

~~the respective City departments designated by the City Manager. It shall be the applicant's responsibility to obtain any fireworks permits, noise permits or other permits that are required for the event. The City Manager shall not be required to process more than one application per applicant during any two-week period of time. Notwithstanding the acceptance of a completed application, no date shall be considered confirmed or guaranteed until a permit is issued.~~

~~(f) Application Content~~

~~The application for a special event or demonstration permit shall set forth the following:~~

~~1. Identifying information:~~

~~i. The name, address and telephone number of the applicant, and a certification that the applicant will be financially responsible for any fees or costs that may be imposed for the event.~~

~~ii. The name, address and telephone number of the person or persons chiefly responsible for the conduct of the special event or demonstration.~~

~~iii. The name, address and telephone number of the sponsoring organization, if any, and the chief officer. If such event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for such permit shall file a written communication from such organization authorizing the applicant to apply for such permit on its behalf and certifying that it will be financially responsible for any costs or fees that may be imposed for the event.~~

~~iv. A copy of the tax exemption letter issued for any applicant claiming a tax exempt non-profit status.~~

~~2. The purpose of the special event or demonstration, the fees charged, the date, location and time when the special event or demonstration is to be conducted and the approximate times when assembly for and disbanding of the special event or demonstration is to take place.~~

~~3. Locations of the assembly or production area, the specific proposed site or route (to include a map and written narrative of the route), the reviewing stands, if any, and the disbanding area for the special event or demonstration.~~

~~4. Proposed alternate routes, sites or times, where applicable.~~

~~5. The approximate number of persons, animals or vehicles which will constitute the special event or demonstration, the kinds of animals, a description of the types of vehicles to be used, the number of bands and other musical units and the nature of any equipment to be utilized to produce sounds or noise during the special event or demonstration.~~

~~6. Number and location of portable sanitation facilities, when appropriate, and other equipment or services necessary to conduct the event with due regard for participant and public health and safety.~~

~~7. The number of persons proposed or required to monitor or facilitate the special event or demonstration and provide spectator or participant control and direction for events using City streets or facilities.~~

~~8. Provisions for first aid or emergency medical services, or both, where appropriate, based on event risk factors.~~

~~9. Insurance and surety bond information, where appropriate.~~

~~10. Any special or unusual requirements that may be imposed or created by virtue of the proposed event activity.~~

~~(g) Standards for Issuance of Permits~~

~~A permit, when required under this section, is authorized to be issued by the City Manager unless the City Manager determines that any of the conditions listed in this subsection will occur. The City Manager may prohibit or restrict any special event or demonstration, whether or not a permit is required, whenever any of the conditions listed in this subsection is likely to occur, unless the event is modified to eliminate the disqualifying factor.~~

~~1. The conduct of the event will substantially interrupt the safe and orderly movement of aerial or marine navigation or of public transportation or other vehicular and pedestrian traffic in the area of its route or unresolvable conflict with construction or development in the public right-of-way or at the public facility or 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. on any of the following streets:~~

~~i. Streets designated as "Primary Arterials" or "Major Streets" on the City Engineering Department's Intercommunity Street System Map and as defined in Council Policy 600-4, "Standards System Map and as defined in Council Policy 600-4, "Standards for Rights-of-Way and Improvements Installed Therein."~~

~~ii. Streets designated as "Preferred Streets" on the Preferred Street System Map pursuant to Council Policy 600-32, "Preferred Street System for Centre City."~~

~~iii. Streets or portions of streets determined to be "principal commuter routes" by the City's traffic engineering staff, based on historic traffic density and congestion during peak commuter hours or based on an average daily trip (a.d.t.) basis of 5,000 vehicles or more.~~

~~2. The conduct of the event will require the diversion of so great a number of police employees from their normal duties as to prevent reasonable police protection to the remainder of the City.~~

~~3. The concentration of persons, animals or vehicles will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets.~~

~~4. The event will not move from its assembly location to its disbanding location expeditiously and without stopping enroute.~~

~~5. The event will substantially interfere with any other special event or demonstration for which a permit has already been granted or with the provision of City services in support of other scheduled events or unscheduled governmental functions such as visits of chiefs of state, or, that the event will have an unmitigatable adverse impact upon residential or business access and traffic circulation in the same general venue; or, if a marathon, that it will occur within thirty (30) calendar days of another marathon. Impacts shall be determined by the City Manager based on pedestrian and traffic circulation, traffic volume and population density.~~

~~6. The applicant has not provided for the following, when applicable:~~

~~i. the services of a sufficient number of traffic controllers trained, certified and appointed pursuant to section 81.03; or~~

~~ii. monitors for crowd control and safety; or~~

~~iii. safety, health or sanitation equipment, services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety; or~~

~~iv. adequate 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; or~~

~~v. required insurance, financial responsibility for the event, or surety bonds.~~

~~7. The event creates the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage.~~

~~8. The event will violate public health or safety law or fail to conform to the requirements of law or duly established Council Policy.~~

~~9. The applicant demonstrates an inability or unwillingness to conduct an event pursuant to the terms and conditions of this section or has failed to conduct a previously authorized or exempted event in accordance with law or the terms of a permit, or both.~~

~~10. The event will require the exclusive use of beach or park areas during any period from Memorial Day through Labor Day in a manner which will adversely impact upon the reasonable use or access to those areas by the general public.~~

~~11. The applicant has not obtained the approval of any other public agency within whose jurisdiction the event or portion thereof will occur.~~

~~12. The applicant has failed to provide an adequate first aid or emergency medical services plan based on event risk factors.~~

~~(h) Contents and Posting of Permit~~

~~Permits shall be kept available at the venue of the event in the method prescribed by the City Manager applicable to the particular event and shall be exhibited upon demand of any City official. Any permit issued hereunder is subject to cancellation pursuant to subsection (k).~~

~~Permits issued shall contain, if relevant, the following information or conditions:~~

~~1. The date, assembly area, time for assembly and starting time of the event.~~

~~2. The specific route plan to the event.~~

- ~~3. The minimum and maximum speeds of the event.~~
- ~~4. The number and types of persons, animals and vehicles, the number of bands, other musical units and equipment capable of producing sound, if any, and limitations thereon pertaining to noise abatement.~~
- ~~5. The maximum interval of space to be maintained between units of the event.~~
- ~~6. The portion of the street or other public way or area that is to be occupied by the event and the location of reviewing or audience stands, if any.~~
- ~~7. The number and location of traffic controllers, monitors, other support personnel and equipment and barricades to be furnished by event organizers.~~
- ~~8. The area and time for disbanding.~~
- ~~9. Conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of concessionaires and related sales activity by the sponsor during the event.~~
- ~~10. Provisions for any required emergency medical services.~~
- ~~11. Such other information and conditions as are reasonably necessary for the conduct of the event and the enforcement of this regulation, including the requirement for the on-site presence of the event organizer or designated representative for all event coordination and management purposes.~~

~~(i) Action on Permit~~

- ~~1. The City Manager or his designate shall take final action upon a completed application as soon as practicable, but no later than thirty (30) calendar days for a special event permit or no later than five (5) working days for a demonstration permit after the timely filing~~

~~thereof; provided, however the City Manager shall not be required to take final action upon any application prior to 180 calendar days before the event, nor to act upon an incomplete or untimely application, or upon two or more applications submitted by the same applicant unless two or more weeks shall have elapsed between the respective dates of submission of each.~~

~~2. Final action on completed applications shall consist of the following:~~

~~i. Issuance of a permit in accordance with the terms of the application; or~~

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

~~iii. Rejection of the application by the City Manager.~~

~~3. If the City Manager rejects the application he shall immediately notify the applicant in writing.~~

~~4. Except when approval by the City Council is required, the denial of a permit application by the City Manager may be appealed within five (5) calendar days of such denial to the Committee on Public Safety and Neighborhood Services of the City Council by the filing of a petition with the City Clerk setting forth the grounds for appeal. The Committee shall hear a timely filed appeal as expeditiously as possible. The decision of the Committee to grant or deny the appeal shall constitute the exhaustion of the applicant's administrative remedy.~~

~~5. Except for events sponsored by the City, wherever possible, priority shall be given in permit issuance to local non-profit tax exempt organizations operating in and providing services to the citizens of the City or County of San Diego.~~

~~(j) Insurance~~

~~1. The applicant or sponsor of a special event or demonstration must possess or obtain comprehensive general liability insurance to protect the City against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insured, The City of San Diego, its officers, employees, and agents and, as required, any other public entity involved in the event. Insurance coverage must be maintained for the duration of the event. Notice of cancellation shall be provided to the City. Coverage shall be in a combined single limit of \$1,000,000. The City Manager may authorize a greater or lesser amount or a particular type of insurance coverage if the event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards. The insurance provided herein 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.~~

~~2. The current effective insurance policy, or copy, along with necessary endorsements shall be filed with the City Manager at least thirty (30) calendar days before the event, unless the City Manager for good cause modifies the filing requirements.~~

~~3. Except for special events where the sale of alcoholic beverages is authorized or for traffic control permits issued in conjunction with a special event pursuant to section 81.03 of this Code, the insurance requirements of subsection 1 above shall be waived by the City Manager if either of the following conditions are satisfied:~~

~~i. The City Manager upon consultation with the City Attorney determines the event is expressive activity protected by the First Amendment, provided the applicant or an officer of the sponsoring organization of a non-athletic event has filed a verified~~

~~statement that they believe the event's purpose is First Amendment expression, and that they have determined that the cost of obtaining insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression, or that it has been impossible to obtain coverage. The statement shall include the name and address of one insurance agent or other source for insurance coverage contacted to determine premium rates for coverage. The City Manager may, however, require the sponsor to defend, indemnify and hold harmless the City from any claim or liability occasioned by the event.~~

~~ii. The event will not involve the use of equipment (other than sound equipment), vehicles, animals, fireworks or pyrotechnics and no fee or donation is charged or required as a condition of admission or participation in the event.~~

~~(k) Revocation of Permit~~

~~Once issued, a event or demonstration permit is subject to revocation by the City Manager or designate if it is determined that the event cannot be conducted without being in violation of the standards or conditions for permit issuance or is being conducted in violation thereof as set forth in subsection (g) herein. Notices of revocation shall be in writing with the reasons for revocation specifically set forth, unless time does not permit, in which case the notification shall be verbal. Appeals shall be handled pursuant to subsection (i) 4.~~

~~(l) Litter Control and Material Condition~~

~~As a condition of the issuance of a permit, the applicant shall be required to make adequate provisions for cleaning-up the area or route of the event both during and upon completion of the event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the event. The permittee will be billed for actual City costs for clean-up and repair of the area or route occasioned by the event if the permittee~~

~~fails to comply with this condition. Such failure by permittee may further result in a denial of a future event permit application or require the deposit of adequate surety, either cash or bond, for future events.~~

~~(m) Rules and Regulations~~

~~The City Manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this section and the provisions of law that pertain to the conduct and operation of a special event or demonstration.~~

~~(n) Cost Recovery and Revenue Sharing for Commercial Special Events~~

~~1. Definitions. As used in this subsection:~~

~~(a) "Commercial special event" shall refer to any special event organized and conducted by any organization that does not qualify as a tax exempt non-profit organization.~~

~~(b) "Non-commercial special event" shall refer to any special event organized and conducted by an organization that qualifies as a tax exempt non-profit organization. A tax exempt non-profit organization sponsoring an event may acknowledge the receipt of cash or in-kind services or goods, donations, prizes or other consideration from for-profit organizations without causing the event to be considered a commercial special event. Such acknowledgement may include use of the name, trademark, service mark or logo of such a for-profit organization in the name or title of the event or the prominent appearance of the same in advertising or on collateral material associated with the event.~~

~~(c) "Gross revenues" shall refer to the sum of all revenues, including but not limited to: cash receipts, license, television, advertising and similar revenues, concessions;~~

~~and all other income associated with the event to the sponsoring organization from whatever source, less contributions from revenues to tax exempt non-profit organizations which operate from or provide services to or within the City or County of San Diego.~~

~~2. Cost Recovery. Except as provided herein or when funded by Council resolution or ordinance, the City Manager shall charge for the actual cost of the salaries of City personnel involved in permit processing, event traffic control, fire safety or other facility or event support and the use of City equipment and other non-personnel expense for any commercial special event. The City Manager shall require prepayment of such fees for a commercial special event or a reasonable estimate thereof at the time the completed application is approved, unless the City Manager for good cause extends the filing deadline or time for payment as prescribed herein.~~

~~3. Revenue Sharing. Event organizers of commercial special events shall pay the City a negotiated percentage of gross revenues or a flat fee. Cost recovery shall not be required of commercial special events where payment for such services has been negotiated by the City Manager within a revenue sharing agreement with the City.~~

~~4. Audits and Accounting Procedures. The event organizer of a commercial special event shall make payment and provide a final financial statement audited by a Certified Public Accountant to the City Manager no later than thirty (30) days after the event for the fees and revenues to be paid to the City. 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 and Comptroller, to promulgate additional standards and procedures for cost accounting to implement this subsection.~~

~~5. Whenever an event, whether commercial or non-commercial, is conducted without a permit when one is required or in violation of the terms of an issued permit, the event organizer shall be responsible for, and the City Manager shall charge for, all City costs incurred for personnel and equipment for a public safety response caused or necessitated by the adverse impacts of that event or the violation of an issued permit upon public safety.~~

~~(o) Interference with Special Event or Demonstration~~

~~No unauthorized person shall obstruct, impede or interfere with any authorized assembly, person, vehicle or animal participating in an authorized special event or demonstration.~~

~~(p) Delegation~~

~~The City Manager may, in his discretion, delegate any or all of his functions hereunder, subject to all the conditions of this section.~~

~~(q) Violations~~

~~Any person who violates any penal provision of subsection (d)(1) or (n) is guilty of a misdemeanor.~~

~~(r) Applicability~~

~~The provisions of this section shall apply to completed applications submitted on and after the effective date of this ordinance.~~

~~(s) Constitutionality and Severability~~

~~If any portion of this section is for any reason held to be invalid such decision shall not affect the remaining portions of this section. The Council hereby declares that it would have adopted the section or any portion thereof, irrespective of the fact that one or more portions be~~

~~declared invalid, and to the extent such portions can be given effect without the invalid provisions or portions thereof, such invalid provisions or portions thereof shall be severable.~~

DIVISION 40

SPECIAL EVENTS

SEC. 22.4001 Title

This Division shall be known as the "Special Events Ordinance."

SEC. 22.4002 Purpose

It is the purpose of the Council to establish a process for permitting Special Events conducted by the private sector to use City Streets, facilities or services. It is recognized that these Special Events enhance the San Diego lifestyle and provide benefits to the citizens through the creation of unique venues for expression and entertainment that are not normally provided as a part of governmental services. Additionally, it is recognized that Tax-exempt Non-profit Organizations that benefit the community are central to the quality of life in San Diego and that they often develop through their Special Events the resources to provide essential services to the citizens of the City and County of San Diego. By recognizing Special Event Venues, it is further intended to supplement land use regulations, to provide a coordinated process for the regulation of certain activities to be conducted in conjunction with Special Events, to ensure the health and safety of patrons of Special Events, to prohibit illegal activity from occurring within Special Event Venues, and to protect the rights and interests granted a Special Event Permit holder. It is further intended to create a mechanism for cost recovery and revenue sharing for Commercial Special Events without having an adverse effect on those Events that contribute to the community. It is also the intent of the Council to protect the rights of its citizens to engage in protected free speech expression activities and yet allow for the least restrictive and reasonable,

time, place and manner regulation of those activities within the overall context of rationally regulating Commercial Special Events that have an impact upon public facilities and services.

SEC. 22.4003 Definitions

As used in this Division:

“Building” means any fully enclosed permanent structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. It includes push carts or sidewalk cafes, as defined in Chapter X of this Code, for which the sale of Goods, food or beverages has been authorized.

“Commercial Special Event” means any Special Event organized and conducted by any Person that does not qualify as a Tax-exempt Non-profit Organization.

“Demonstration” means any formation, procession or assembly of seventy-five (75) or more persons which, for the purpose of Expressive Activity, is:

(a) 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

(b) to gather at a public park or other public area.

“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 public oratory and distribution of literature.

"Goods" means goods, wares, personal property, merchandise or any other similar item which is 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.

"Non-Commercial Special Event" means any Special Event organized and conducted by a Person that qualifies as a Tax-exempt Non-profit Organization.

"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:

(a) any organized formation, parade, procession or assembly consisting of seventy-five (75) or more Persons, and which may include animals, vehicles or any combination thereof, which is to assemble or travel in unison on any Street which does not comply with normal or usual traffic regulations or controls; or,

(b) any organized assemblage of seventy-five (75) or more Persons at any public beach or public park which is to gather for a common purpose under the direction and control of a Person; or,

(c) any other organized activity conducted by a Person for a common or collective use, purpose or benefit which involves the use of, or has an impact on, other public property or facilities and the provision of City public safety services in response thereto.

(d) Examples of Special Events include concerts, parades, circuses, fairs, festivals, block parties, community events, mass participation sports (such as, marathons and running Events, bicycle races or tours, "over-the-line" tournaments), or spectator sports (such as, football, basketball and baseball games, golf tournaments or hydroplane or boat races).

"Special Event Permit" means a permit issued under this Division.

"Special Event Venue" means that area for which a Special Event Permit has been issued.

"Street" means a way or place of whatever nature, publicly maintained and open to use of the public for purposes of vehicular travel. Street includes highway.

"Tax-exempt Non-profit Organization" means an organization that is exempted from payment of income taxes by federal or state law and which has been in existence for a minimum of six (6) months preceding the date of application for a Special Event Permit.

"Vendor" means any Person who sells or offers to sell, any Goods, food, or beverages within a Special Event Venue.

SEC. 22.4004 Special Event Permit Required

(a) Except as provided in this Division, for any Person to conduct, promote, manage, aid, or solicit attendance at, a Special Event, the Person shall obtain a Special Event Permit from the City Manager.

(b) The City Manager is authorized to issue permits for Special Events occurring within the city limits of the City pursuant to the procedures established in this Division. The City Manager is authorized to determine the Special Event Venue. The City Manager shall set reasonable boundaries for the Special Event Venue, balancing the Special Event requirements and public health, safety, and welfare. The City Manager is authorized to coordinate the issuance of a Special Event Permit with other public agencies through whose jurisdiction or property the Event

or portion thereof occurs and to issue a Special Event Permit upon the concurrence of other public agencies involved

SEC. 22.4005 Exceptions to Special Event Permit Requirement

(a) A Special Event Permit is not required for any activity listed in Section 22.4005(c).

(b) Although not required to get a Special Event Permit, an Event Organizer of an activity exempted pursuant to Section 22.4005(c) is required to comply with general regulations governing public safety or health.

(c) The following activities are exempt from the Special Event Permit requirement:

(1) funeral processions by a licensed mortuary;

(2) activities conducted by a governmental agency acting within the scope of its authority;

(3) lawful picketing on Sidewalks;

(4) Demonstrations that do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment (other than sound equipment), 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 at least thirty-six (36) hours in advance of the commencement of the Demonstration, and,

(5) film-making activities conducted under the aegis of the Motion Picture and Television Bureau of the San Diego Chamber of Commerce, or successor agency, when provisions for cost recovery for City support services have been made

SEC. 22.4006 Issuance of Special Event Permit Does Not Obligate City Services

(a) Issuance of a Special Event Permit pursuant to this Division does not obligate or require the City Manager to provide City services, equipment or personnel in support of an Event.

(b) Subject to approval of the City Council, the City Manager may provide City services, equipment, or personnel for Commercial Special Events. Approval of the City Council is not required for the City Manager to provide City services, equipment, or personnel for a Commercial Special Event, if the City Manager makes provisions with the Event Organizer for cost recovery or revenue sharing, or both, from the Event.

(c) Without Council authorization, the City Manager may provide City services, equipment or personnel in direct support of a Non-commercial Special Event, if the cost to the City does not exceed three thousand dollars (\$3,000.00) for the entire Event, if the cost is within budget limitations, and if the City Manager finds that a public purpose will be served. The City Manager may find that a public purpose is served if all four of the factors provided in Section 22.4006(c)(1)--(4) are met:

(1) The Event is organized and conducted by a Tax-exempt Non-profit Organization which operates from or provides services within the City or County of San Diego, and,

(2) the Event provides a benefit to the general public; and,

(3) the Event includes participation by the general public (notwithstanding an admission or participation fee); and,

(4) provision of City services will result in improved crowd or Event control and general public safety.

SEC. 22.4007 Priority of Special Event Permit Issuance

Except for Events sponsored by the City, and wherever possible, priority shall be given for the issuance of a Special Event Permit to local Tax-exempt Non-profit Organizations operating in and providing services to the citizens of the City or County of San Diego.

SEC. 22.4008 Use of City Seal or Name

(a) The City Manager is authorized to issue a Special Event Permit for any Event whose title or theme will use the City seal or the words "The City of San Diego," "City of San Diego," or any similar combination or facsimile that would reasonably imply an official endorsement of the Event by the City, provided that revenue sharing by the Event Organizer is required as a condition of such approval.

(b) Prior authorization from the City Manager is required for an Event Organizer to use the words "The City of San Diego" or "City of San Diego," or a facsimile of the seal of the City of San Diego, in the title of a Special Event.

SEC. 22.4009 Time for Filing Application for Special Event Permit; Time for Notifying City Manager of Demonstration

(a) Except for Special Events at the San Diego Convention Center, the Convention and Performing Arts Center, or QUALCOMM Stadium, an application for a Special Event Permit shall be filed with the City Manager not less than sixty (60) calendar days, nor more than two (2) years, before the time when it is proposed to conduct the Special Event.

(b) Applications for Special Events at City public facilities, such as the San Diego Convention Center, the Convention and Performing Arts Center, and QUALCOMM Stadium shall be submitted in accordance with the time limits and procedures established by the City Manager for such facilities.

(c) Any Person organizing a Demonstration shall notify the City Manager not less than ten (10) calendar days before the time when it is proposed to conduct the Demonstration.

SEC. 22.4010 When Application for Special Event Permit Is Deemed Complete

An application for a Special Event Permit is deemed completed when the applicant has provided all of the information required in Section 22.4012 including any additional information required by the City Manager, and the application has been approved by any City department designated by the City Manager.

SEC. 22.4011 Date of Special Event Not Confirmed Until Permit Issued

Notwithstanding the City Manager's acceptance of a completed application, no date shall be considered confirmed until a Special Event Permit is issued.

SEC. 22.4012 Content of Special Event Permit Application

The application for a Special Event Permit may include the following:

- (a) the name, address and telephone number of the applicant, and,
- (b) a certification that the applicant will be financially responsible for any City fees or costs that may be imposed for the Event, and,
- (c) the name, address and telephone number of the Person chiefly responsible for organizing and conducting the Special Event, and,
- (d) the name, address and telephone number of the Event Organizer, if any, and the chief officer of the Event Organizer, if any, and,
- (e) if the Special Event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for the Special Event Permit shall file a written communication from such organization.

- (1) authorizing the applicant to apply for the Special Event Permit on its behalf; and,
- (2) certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the Event; and,
 - (f) a copy of the tax exemption letter issued for any applicant claiming to be a Tax-exempt Non-profit Organization; and,
 - (g) a statement of the purpose of the Special Event; and,
 - (h) a statement of the fees to be charged for the Special Event; and,
 - (i) the proposed location for the Special Event; and,
 - (j) the date and times when the Special Event is to be conducted; and,
 - (k) the approximate times when assembly for, and disbanding of, the Special Event is to take place; and,
 - (l) the proposed locations of the assembly or production area; and,
 - (m) the specific proposed site or route, including a map and written narrative of the route; and,
 - (n) the proposed site of any reviewing stands; and,
 - (o) the proposed site for any disbanding area; and,
 - (p) proposed alternate routes, sites or times, where applicable; and,
 - (q) the approximate number of Persons, animals or vehicles that will constitute the Special Event; and,
 - (r) the kinds of animals anticipated to be part of the Special Event; and,
 - (s) a description of the types of vehicles to be used in the Special Event; and,

- (t) the number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise; and,
- (u) the number and location of portable sanitation facilities; and,
- (v) other equipment or services necessary to conduct the Event with due regard for participant and public health and safety; and,
- (w) the number of Persons proposed or required to monitor or facilitate the Special Event and provide spectator or participant control and direction for Events using City Streets, Sidewalks, or facilities; and,
- (x) provisions for first aid or emergency medical services, or both, based on Event risk factors; and,
- (y) insurance and surety bond information; and,
- (z) any special or unusual requirements that may be imposed or created by virtue of the proposed Event activity; and,
- (aa) any other information required by the City Manager.

SEC. 22.4013 Conditions Affecting the Issuance of a Special Event Permit

- (a) The City Manager may issue a Special Event Permit, when all of the conditions listed in Sections 22.4013(a)(1) - (10) are met
 - (1) The Event will not substantially interrupt the safe and orderly movement of aerial or marine navigation.
 - (2) The Event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route.
 - (3) The Event will not cause an 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. on any of the following Streets:

(A) Streets designated as "Primary Arterials" or "Major Streets" on the City Engineering Department's Intercommunity Street System Map and as defined in Council Policy 600-4, "Standards System Map and as defined in Council Policy 600-4, "Standards for Rights-of-Way and Improvements Installed Therein."

(B) Streets designated as "Preferred Streets" on the Preferred Street System Map pursuant to Council Policy 600-32, "Preferred Street System for Centre City."

(C) Streets or portions of Streets determined to be "principal commuter routes" by the City's traffic engineering staff, based on historic traffic density and congestion during peak commuter hours or based on an average daily trip (a.d.t.) basis of five thousand (5,000) vehicles or more.

(5) The Event will not require the diversion of a great number of police employees from their normal duties, thereby preventing reasonable police protection to the remainder of the City.

(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 enroute.

(8) The Event will not substantially interfere with any other Special Event or Demonstration for which a permit has already been granted or with the provision of City services.

in support of other scheduled Events or unscheduled governmental functions such as visits of chiefs of state.

(9) The Event will not have an unmitigatable adverse impact upon residential or business access and traffic circulation in the same general venue.

(10) If the Event is a marathon, it will not occur within thirty (30) calendar days of another marathon.

(b) To make the determination under Section 22.4013(a), the City Manager shall consider pedestrian and traffic circulation, traffic volume and population density.

(c) In order to ensure that the conditions in Section 22.4013(a) are met, the City Manager may place conditions on the Special Event Permit.

SEC. 22.4014 Reasons for Denial of a Special Event Permit

(a) The City Manager may deny a Special Event Permit to an applicant who has not

(1) provided for the services of a sufficient number of traffic controllers trained, certified and appointed pursuant to Section 81.03, or,

(2) provided sufficient monitors 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 safety, 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, or

(5) met all of the requirements for submitting an application for a Special Event Permit.

(b) The City Manager may deny a Special Event Permit if in the City Manager's opinion:

(1) the Event will create the imminent possibility of violent disorderly conduct likely to endanger public safety or to result in significant property damage, or,

(2) the Event will violate public health or safety laws, or,

(3) the Event fails to conform to the requirements of law or duly established Council Policy, or,

(4) the applicant demonstrates an inability or unwillingness to conduct an Event pursuant to the terms and conditions of this Division, or,

(5) the applicant has failed to conduct a previously authorized or exempted Special Event in accordance with law or the terms of a permit, or both, or,

(6) the Event will require the exclusive use of beach or park areas during any period from Memorial Day through Labor Day in a manner which will adversely impact upon the reasonable use or access to those areas by the general public, or,

(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 may deny a Special Event Permit to an applicant who has failed to comply with any term of this Division, or with any condition of a Special Event Permit previously issued to the applicant.

SEC. 22.4015 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 22.4014, he or she shall notify the applicant in writing as soon as is reasonably practical.

(b) The denial of a Special Event Permit may be appealed to the Committee on Public Safety and Neighborhood Services of the City Council, or successor committee.

(c) An appeal shall be made in writing within five (5) calendar days of the date of the written denial. An appeal is made by filing a written petition with the City Clerk setting forth the grounds for appeal.

(d) The Public Safety and Neighborhood Services Committee, or successor committee, shall hear an appeal as soon as is reasonably practicable.

(e) The decision of the Public Safety and Neighborhood Services Committee, or successor committee, to grant or deny the appeal shall constitute the exhaustion of the applicant's administrative remedy.

SEC. 22.0416 Display of Special Event Permit Required

A copy of the Special Event Permit shall be displayed in the Special Event Venue in the method prescribed by the City Manager applicable to the particular Event and shall be exhibited upon demand of any City official.

SEC. 22.4017 Contents of Special Event Permit

A Special Event Permit may contain the following information or conditions:

(a) the location of the Special Event Venue, which may be identified by a map attached to the Special Event Permit,

(b) the date, assembly area, time for assembly and starting time of the Special Event,

(c) the specific route plan to the Special Event,

- (d) the minimum and maximum speeds of the Special Event,
- (e) the number and types of Persons, animals and vehicles, the number of bands, other musical units and equipment capable of producing sound, if any, and limitations thereon pertaining to noise abatement,
- (f) the maximum interval of space to be maintained between booths or other structures to be used for the Special Event,
- (g) the portion of the Street and Sidewalk that is to be occupied by the Event and the location of reviewing or audience stands, if any,
- (h) the number and location of traffic controllers, monitors, other support personnel and equipment and barricades to be furnished by the Special Event Organizer,
- (i) the area and time for disbanding,
- (j) conditions or restrictions on the use of alcoholic beverages and authorization for and conditions of the exclusive control or regulation of Vendors and related sales activity by the Event Organizer during the Special Event,
- (k) provisions for any required emergency medical services; and,
- (l) such other information and conditions as are reasonably necessary for the conduct of the Special Event and the enforcement of this Division, including the requirement for the on-site presence of the Event Organizer or its designated representative for all Event coordination and management purposes.
- (m) As a condition of the issuance of a Special Event Permit, the applicant shall be required to make adequate provisions for cleaning-up the area or route of the Event both during and upon completion of the Event and to return the area or route to the same condition of material preservation and cleanliness as existed prior to the Event.

SEC. 22.4018 City Manager's Action on Special Event Permit Application

(a) Except as provided in Section 22.4018(b), the City Manager shall take final action upon a completed application for a Special Event Permit as soon as practicable.

(b) The City Manager is not required to take final action upon any Special Event Permit application prior to one hundred (100) calendar days before the Event.

(c) The City Manager is not required to take final action on an incomplete or untimely Special Event Permit application.

(d) The City Manager is not required to process more than one (1) application for a Special Event Permit per applicant during any two-week period.

(e) The City Manager is not required to take final action upon two (2) or more Special Event Permit applications submitted by the same applicant unless two (2) or more weeks shall have elapsed between the respective dates of submission of each.

(f) Final action on a completed Special Event Permit application shall consist of one (1) 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.

SEC. 22.4019 Insurance Required to Conduct Special Event

(a) The Event Organizer of a Special Event must possess or obtain comprehensive general liability insurance to protect the City against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the Event. Such insurance

shall name The City of San Diego, its officers, employees, and agents and, as required, any other public entity involved in the Event, as additional insureds. Insurance coverage must be maintained for the duration of the Event. Notice of cancellation shall be provided immediately to the City.

(b) Except as provided in Section 22.4019(c), comprehensive general liability insurance coverage required by Section 22.4019(a) shall be in a combined single limit of at least one million dollars (\$1,000,000).

(c) If the Special Event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the City Manager may authorize a greater or lesser amount of coverage than required by Sections 22.4019(a) and (b), or may require a particular type of insurance coverage different from that specified in Sections 22.4019(a) and (b).

(d) The insurance required by Section 22.4019(a) 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.

(e) The Event Organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the City Manager at least thirty (30) calendar days before the Event, unless the City Manager for good cause modifies the filing requirements.

SEC. 22.4020 Waiver of Insurance Requirements

(a) Except for Special Events where the sale of alcoholic beverages is authorized or for traffic control permits issued in conjunction with a Special Event pursuant to Section 81.03 of this Code, the insurance requirements of Section 22.4019 may be waived by the City Manager. In making the determination of whether to waive insurance, the City Manager shall consider the factors provided in Sections 22.4020(a)(1) -- (6).

(1) Whether the Special Event is Expressive Activity protected by the First Amendment;

(2) whether the applicant or an officer of the sponsoring organization of a non-athletic Event has filed a verified statement that he or she believes the Event's purpose is First Amendment expression;

(3) whether the applicant or officer of the sponsoring organization has determined that the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression;

(4) whether it is objectively impossible to obtain insurance coverage;

(5) whether the Event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks or pyrotechnics, or;

(6) whether a fee or donation is charged or required as a condition of admission or participation in the Event.

(b) The statement required by Section 22.4020(a)(3) shall include the name and address of one (1) insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

(c) To claim that it is objectively impossible to obtain insurance coverage pursuant to Section 22.0420(a)(4), the applicant shall submit a statement from at least two (2) independent licensed insurance brokers demonstrating the insurance is unavailable in the market place.

(d) Even though insurance is waived, the City Manager may require the Event Organizer of a Special Event to defend, indemnify and hold harmless the City from any claim or liability arising from the Event.

SEC. 22.4021 Revocation of Special Event Permit

(a) Any Special Event Permit issued pursuant to this Division is subject to revocation pursuant to Section 22.4021.

(b) A Special Event Permit may be revoked if the City Manager determines:

(1) that the Event cannot be conducted without violating the standards or conditions for Special Event Permit issuance, or,

(2) the Event is being conducted in violation of any condition of the Special Event Permit, or

(3) the Event poses a threat to health or safety, or

(4) the Event Organizer or any Person associated with the Event has failed to obtain any other permit required pursuant to this Code, or

(5) the Special Event Permit was issued in error or contrary to law.

(c) Except as provided in Section 22.4021(d), notices of revocation shall be in writing and specifically set forth the reasons for the revocation.

(d) If there is an emergency requiring immediate revocation of a Special Event Permit, the City Manager may notify the permit holder verbally of the revocation.

(e) An appeal from a revocation shall be handled in the same manner and under the same time requirements as denials of Special Event Permits pursuant to Section 22.4018.

SEC 22.4022 Cost Recovery for Commercial Special Events

(a) Except as otherwise provided in this Division, or when funded or waived by Council resolution or ordinance, for any Commercial Special Event the City Manager shall charge for the actual cost of:

(1) the salaries of City personnel involved in permit processing, Event traffic control, fire safety or other facility or Event support, and

(2) the use of City equipment and other non-personnel expense.

(b) The City Manager shall require payment of fees required pursuant to Section 22.4022(a), or a reasonable estimate thereof, at the time the completed application is approved, unless the City Manager for good cause extends time for payment.

(c) If the Event Organizer fails to comply with Section 22.4017(m), the Event Organizer 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 failed to comply with Section 22.4017(m) under a previously issued Special Event Permit, the City Manager may require the Event Organizer to deposit adequate surety in the form of cash or bond.

SEC. 22.4023 Effect of Receipt of Donations on Status of Tax-Exempt Non-Profit Organizations

A Tax exempt Non-profit Organization sponsoring an Event may acknowledge the receipt of cash or in-kind services or goods, donations, prizes or other consideration from for-profit organizations without causing the Event to be considered a Commercial Special Event. Such acknowledgment may include use of the name, trademark, service mark or logo of such a for-profit organization in the name or title of the Event or the prominent appearance of the same in advertising or on collateral material associated with the Event.

SEC. 22.4024 Revenue Sharing

(a) An Event Organizer of a Commercial Special Events shall pay the City a negotiated percentage of Gross Revenues, a flat fee, 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 interests of the City.

(b) Cost recovery under Section 22.4022 shall not be required of Commercial Special Events where payment for such services has been negotiated by the City Manager within a revenue sharing agreement with the City.

(c) An Event Organizer of a Commercial Special Event shall not be required to enter into a revenue sharing agreement with the City where the City has funded or waived cost recovery pursuant to Section 22.4022, or where the City Manager determines that it is in the best interests of the City not to require a revenue sharing agreement.

SEC. 22.4025 Audits and Accounting Procedures

(a) An Event Organizer of a Commercial Special Event shall make payment and provide a final financial statement audited by a certified public accountant to the City Manager no later than thirty (30) calendar days after the Event for the fees and revenues to be paid to the City.

(b) Upon the request of the City Manager, an Event Organizer of a Non-commercial special Event shall provide a final financial statement audited by a certified public accountant no later than thirty (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 and Comptroller, to promulgate additional standards and procedures for cost accounting to implement Section 22.4025.

(d) At any time during normal business hours, and as often as the City Manager or City Auditor and Comptroller 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 or County of

San Diego The City will 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.

SEC 22.4026 Delegation of City Manager's Authority

The City Manager may delegate any or all of his or her functions under this Division to his or her deputies or subordinates.

SEC. 22.4027 City Manager Authorized to Adopt Rules and Regulations

The City Manager is authorized to promulgate additional rules and regulations that are consistent with and that further the terms and requirements set forth within this Division and the provisions of law that pertain to the conduct and operation of a Special Event or Demonstration.

SEC. 22.4028 Enforcement Authority

The City Manager is authorized to administer and enforce the provisions of this Division. The City Manager and his or her designated Enforcement Officials may exercise any enforcement powers as set forth in Division 1, Article 2, Chapter 1 of the Code.

SEC. 22.4029 Authorized Special Event Vendors

(a) The issuance of a Special Event Permit confers upon the permit holder or Event Organizer the right to control and regulate the sale of Goods, food and beverages within the Special Event Venue in accordance with the terms and conditions of the Special Event Permit.

(b) Vendors authorized to sell Goods, food, or beverages in the Special Event Venue shall display their authorization in the manner required by the City Manager. Only Vendors displaying the required authorization shall be allowed to sell Goods, food, or beverages in the Special Event Venue.

SEC. 22.4030 Strict Liability Offenses

Violations of this Division shall be treated as strict liability offenses regardless of intent.

SEC. 22.4031 Unlawful to Conduct or Promote Attendance at Special Event without Permit

(a) It is unlawful to conduct a Special Event without a Special Event Permit as required pursuant to this Division.

(b) It is unlawful for any Person to conduct, promote or manage any Special Event for which a Special Event Permit has not been issued.

SEC. 22.4032 Other Permits and Licenses

(a) The issuance of a Special Event Permit does not relieve any Person from the obligation to obtain any other permit or license required pursuant to this Code.

(b) The issuance of any other permit or license issued pursuant to this Code does not relieve any person from the obligation to obtain a Special Event Permit pursuant to this Division.

SEC. 22.4033 Unlawful to Sell Goods in Special Event Venue without Authorization

It is unlawful for any Person to sell, resell, or offer to sell or resell, any Goods, food, or beverages in a Special Event Venue, except:

(a) from any Building, or,

(b) from any tent, booth or temporary structure expressly authorized pursuant to a Special Event Permit, or,

(c) as authorized pursuant to a conditional use permit pursuant to Chapter X of this Code.

SEC. 22.4034 Unlawful Selling of Tickets to Special Event within Special Event Venue

It is unlawful for any Person to sell for profit, or offer to sell for profit, any ticket of admission to a Special Event within a Special Event Venue, except:

(a) from any ticket office, booth, or other similar place established and maintained for the purpose of selling tickets; and,

(b) with the express authorization of the City Manager pursuant to a Special Event Permit.

SEC. 22.4035 Unlawful to Display Signs in Special Event Venue

It is unlawful for any Person to place, post, paint, erect, display, secure, or maintain any Sign or advertising in violation of those provisions of Chapter IX and X of this Code, regulating Signs and advertising displays.

SEC. 22.4036 Unlawful to Use City Name without Authorization

It is unlawful for any Event Organizer to use in the title of an Event the words "The City of San Diego" or "City of San Diego," or a facsimile of the seal of the City of San Diego, without the City's authorization.

SEC. 22.4037 Unlawful to Interfere with Special Event or Demonstration

It is unlawful for any Person to obstruct, impede or interfere with any authorized assembly, Person, vehicle or animal participating in a Demonstration or an Event for which a Special event Permit has been issued.

SEC. 22.4038 Cost Recovery for Unlawful Special Event

Whenever a Commercial or Non-commercial Special Event is conducted without a Special Event Permit when one is required, or an Event is conducted in violation of the terms of an issued Special Event Permit, the Event Organizer shall be responsible for, and the City Manager shall

charge the Event Organizer for, all City costs incurred for personnel and equipment for a public safety response caused or necessitated by the adverse impacts of the Event, or the violation of the Special Event Permit, upon public safety.

SEC. 54.0105 ~~Wares, Merchandise or Personal Property Sidewalk Sales and Displayed or Placed on Sidewalk~~ -- s Prohibited

(a) Except as otherwise provided in this code, ~~Section 54.0105(b) and (c), it shall be is~~ unlawful for any ~~person, firm or corporation~~ Person to set out for exhibition, ~~show or otherwise, or to maintain, place, or allow to remain,~~ any goods, wares, baggage, personal property or merchandise upon any sidewalk or curb ~~within the City of San Diego,~~ between the outer edge of the sidewalk or curb and the property line.

(b) ~~, and no Section 54.0105(a) does not~~

(1) ~~prohibit any Person from loading or unloading goods, wares, baggage, personal property or merchandise, or other thing of whatsoever nature, shall be by any person placed, or allowed to remain on any sidewalk or curb within said City, between the outer edge of the sidewalk or curb and the property line where such in front of the Person's place of business,~~

(2) ~~prohibit any Person from leaving any goods, wares and or merchandise, or other thing of any kind or nature, are placed, or allowed to remain, provided that nothing therein contained shall prohibit the right of any person, firm or corporation to load or unload goods, wares and merchandise in front of the place of business of said person, firm or corporation, and to leave such goods, wares and merchandise upon said sidewalk or curb only for such length of time as is on any sidewalk for the length of time necessary for the purpose of loading or unloading them same, or to~~

(3) prohibit any Person from loading or unloading attended baggage and or personal property into or from a means of transportation.

(c) A sidewalk sale may be permitted in a Special Event Venue pursuant to a Special Event Permit issued under Chapter II, Article 2, Division 40 of this Code

SEC. 54.0106 Wares or Merchandise Displayed on Sidewalk -- Permits

— Upon a determination that a public or community event sponsored by a nonprofit community or civic organization or business improvement organization, town council, recreation council, civic planning group, city-sponsored organization or any similar organization is to take place, a permit pursuant to the provisions of Section 22.0207 may be issued for the sale or display of goods, wares or merchandise in or upon the areas described in Section 54.0105. Such display or sales shall be restricted to that area specifically described in the permit. The permit may authorize the conduct of activities consistent with the public or community event and other provisions of this code pertaining to such activities shall not apply during the time period of the permit.

KJS:pev
10/16/97
10/23/97 Cor. Copy
SO-98-31

11/18/97 # 58 met

CERTIFICATE OF PUBLICATION

RECEIVED
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97 DEC -8 PM 4:46

SAN DIEGO, CALIF.

P

City Clerk's Office
City of San Diego
202 C Street
MS 2A
San Diego, CA

92101

IN THE MATTER OF

NO.

O-18439

ORDINANCE NUMBER
O-18439 (NEW SERIES)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER II, ARTICLE 2, DIVISION 2 BY REPEALING SECTION 22.0207; AND BY CREATING A NEW DIVISION 40, SECTIONS 22.4001, 22.4002, 22.4003, 22.4004, 22.4005, 22.4006, 22.4007, 22.4008, 22.4009, 22.4010, 22.4011, 22.4012, 22.4013, 22.4014, 22.4015, 22.4016, 22.4017, 22.4018, 22.4019, 22.4020, 22.4021, 22.4022, 22.4023, 22.4024, 22.4025, 22.4026, 22.4027, 22.4028, 22.4029, 22.4030, 22.4031, 22.4032, 22.4033, 22.4034, 22.4035, 22.4036, 22.4037, AND 22.4038; ALL RELATING TO SPECIAL EVENTS; AND AMENDING CHAPTER V, ARTICLE 4, DIVISION 1 BY AMENDING SECTION 54.0105 AND BY REPEALING SECTION 54.0106; RELATING TO WARES, MERCHANDISE OR PERSONAL PROPERTY DISPLAYED OR PLACED ON SIDEWALKS; AND AMENDING CHAPTER V, ARTICLE 9.5, DIVISION 2; CHAPTER VI, ARTICLE 3, DIVISION 1; AND CHAPTER VIII, ARTICLES 1, DIVISION 3, AND ARTICLE 2, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS BY RENUMBERING SECTION 22.0207 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ CHAPTER II, ARTICLE 2, DIVISION 40.

the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101. INTRODUCED ON November 4, 1997 Passed and adopted by the Council of the City of San Diego on November 18, 1997.

AUTHENTICATED BY:
SUSAN GOLDING
Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California
By Lori A. Witzel, Deputy
Pub. Dec. 2-e107484

I, Sylvia Serrano, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not party to or interested in the above entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

DECEMBER 2

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 2 day of

Dec 1997

S. Serrano
(Signature)

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This ordinance repeals Sections 22.0207 and 54.0106, amends Chapter II, Article 2 by creating a new Division 40 and adding Sections 22.4001, 22.4002, 22.4003, 22.4004, 22.4005, 22.4006, 22.4007, 22.4008, 22.4009, 22.4010, 22.4011, 22.4012, 22.4013, 22.4014, 22.4015, 22.4016, 22.4017, 22.4018, 22.4019, 22.4020, 22.4021, 22.4022, 22.4023, 22.4024, 22.4025, 22.4026, 22.4027, 22.4028, 22.4029, 22.4030, 22.4031, 22.4032, 22.4033, 22.4034, 22.4035, 22.4036, 22.4037 and 22.4038, and amending Section 54.0105, all relating to special events. This ordinance creates consistency with the City's policies and procedures relating to special events, cleans up ambiguities that appear in Sections 22.0207 and 54.0106, and provides additional enforcement measures for violation of the relevant sections governing special events. This ordinance becomes effective on the date of adoption. A complete copy of the Ordinance is available for inspection in the Office of the City Clerk.