

ORDINANCE NO. 2015-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, TO REPEAL AND REPLACE ESCONDIDO MUNICIPAL CODE, CHAPTER 16, LICENSES AND BUSINESS REGULATIONS GENERALLY, ARTICLE 4, SPECIAL EVENT PERMITS

<b>COPIES TO:</b>	
ENGINEERING	_____
FINANCE	_____
PLANNING	_____
PBLC.WRKS.	_____
UTILITIES	_____
OTHER	_____
	<i>Coyce M.</i>

WHEREAS, the City Council seeks to encourage participation in the democratic process and to protect the rights of its citizens to engage in protected free speech and expressive 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 activities that have a significant impact upon public facilities and services; and

WHEREAS, the City Council recognizes that Special Events provide benefits to the entire community through the creation of unique venues for entertainment and expression that are not normally provided as a part of governmental services; and

WHEREAS, the City Council believes it is vital to provide a coordinated process for the regulation of certain activities to be conducted in conjunction with Special Events; and

WHEREAS, the City Council finds it is now appropriate to update the City's policies and procedures for Special Events.

Now, therefore, the City Council of the City of Escondido, California, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Chapter 16, Licenses and Business Regulations Generally, Article 4, Special Events Permits, is repealed and replaced with Exhibit "A" which is incorporated herein by this reference.

SECTION 2. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 3. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

## **Chapter 16 - LICENSES AND BUSINESS REGULATIONS GENERALLY**

### **ARTICLE 4 SPECIAL EVENT PERMITS**

#### **Sec. 16-201. Definitions.**

(a) "Director" means the Director of Economic Development & Community Relations.

(b) "Special Event" means the temporary use of city owned public property, including but not limited to streets, sidewalks, parks, and lakes for the purpose of conducting a parade or any other event which significantly impacts or substantially restricts the public's normal, typical or customary use, level of use, or ability to use such property and involves the presence of more than seventy-five persons at any one time during the event.

#### **Sec. 16-202. Permit and exemptions.**

(a) No person shall direct, conduct, manage or carry on a Special Event without having obtained a permit from the city pursuant to this article.

(b) The following activities are exempt from the Special Event permit requirement:

(1) Spontaneous Events conducted on the paved pedestrian areas adjacent to city hall to include the rotunda and the public sidewalks between the city hall and the northwest corner of North Broadway and West Valley Parkway. A "Spontaneous Event" means an event which is occasioned by news or affairs coming into public knowledge less than forty-eight hours prior to such event.

(2) Events that are authorized by means of a contract with the City of Escondido.

#### **Sec. 16-203. Interference with Special Event.**

No person shall knowingly join or participate in any Special Event in violation of any of the terms, conditions or regulations of the permit issued. No person shall knowingly interfere with the orderly conduct of any Special Event.

#### **Sec. 16-204. Special Events committee established.**

The Director shall chair a Special Events committee composed of pertinent department heads, or their designated representatives, and any additional members as needed. The Special Events committee should meet whenever departmental coordination is required to process a Special Event permit application.

**Sec. 16-205. Permit application for Special Events; other permits.**

(a) An application for a permit for a Special Event should be filed with the city not less than sixty (60) nor more than three hundred sixty-five (365) days before the date proposed for holding a Special Event. Such application shall be signed by the applicant or the applicant's authorized agent and shall be accompanied by a nonrefundable processing fee in an amount established by the city council.

(b) The Director may accept for filing an application submitted less than sixty (60) days before the proposed Special Event for events requiring nominal city staff time, coordination or support and may waive the processing fee.

(c) 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 any other permit issued 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. The procedures and standards of this section shall be used to the extent practicable or necessary to supplement procedures for the issuance of other permits.

**Sec. 16-206. Contents of application.**

(a) Application for a permit to hold a Special Event shall be made on forms provided by the city. The application shall include a detailed description of the proposed Special Event, including but not limited to the following:

(1) The name and address of the applicant, and if the same be a corporation, the names of its principal officers, or if the same be a partnership, association, organization or fictitious company, the names of the partners or persons comprising the association, organization or company with the address and telephone number of each;

(2) If such event is designed to be held by, on behalf of, or for any organization or individual other than the applicant, the applicant for such permit shall file a written communication from such organization or individual authorizing the applicant to apply for such permit on its behalf and certifying that it will be responsible for any costs or fees that may be imposed for such event;

(3) The peak number of persons anticipated to be participating, at any point, in the event;

(4) Purpose of the event;

(5) The date, hours and precise location where the event is to be held;

(6) The approximate times when assembly for and disbanding of the Special Event is to take place;

(7) The amount of any spectator, participant, entry or other fee, if any, to be charged in connection with the event;

(8) Type and nature of any vehicles, equipment or other apparatus to be used in connection with the event, including the number of and location for portable sanitation facilities, when appropriate;

(9) The number, location and amplifying range of any sound-amplifying systems to be used in connection with the event;

(10) Type of goods, wares, merchandise, food or beverages to be sold or otherwise provided to persons at the event;

(11) The name and business address of any vendors who will be participating in the event and proof of any required state or county permits. Special Event vendors may operate under the business license of the Special Event applicant;

(12) A copy of the tax exemption letter for any applicant claiming a tax-exempt, nonprofit status;

(13) Provisions for first aid, where appropriate;

(14) Location of the assembly area and, if appropriate, the proposed site or route;

(15) A site plan for the Special Event, to include number and location of available parking;

(16) Any unique requirements that may be imposed or created by virtue of the proposed event.

(b) The application shall be signed by the applicant under penalty of perjury and shall contain an agreement as provided in this Article.

#### **Sec. 16-207. Processing Special Event permit applications.**

(a) The Director shall promptly process all applications for a Special Event. An untimely or incomplete application shall be returned to the applicant.

(b) An application for a Special Event permit shall be approved, conditionally approved or denied within thirty (30) days after submission of a complete application. The Director shall provide the applicant a written explanation for any decision to conditionally approve or deny an application.

(c) Priority shall be given in permit issuance to city sponsored events and local nonprofit tax-exempt organizations operating in and providing services to the citizens of the city.

(d) Issuance of a Special Event permit does not obligate or require the city to provide city services, equipment or personnel in support of an event.

(e) No date shall be considered confirmed until a Special Event permit is issued.

(f) No consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the Special Event. The Director shall consult with the city attorney whenever a permit involving "expressive activity" is conditionally approved or denied. "Expressive activity" means 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. Expressive activity includes but is not limited to public oratory, any protest and the distribution of literature.

**Sec. 16-208. Reserved.**

**Sec. 16-209. Surety and insurance.**

(a) Prior to the issuance of a permit, the city shall require the following:

(1) The execution of an agreement to compensate the city for any loss or damage to public property that can be directly attributed to the holding of the Special Event or the deposit of a surety bond or cash in an amount sufficient to guarantee the cleaning and restoration of the event site to the condition in which it was found prior to the conduct of the event; and

(2) Proof of public liability and property damage insurance in full force and effect during the Special Event, including products liability coverage, written by an insurance company acceptable to the city in the minimum limits, as set by resolution of the city council, and in a form acceptable to the city attorney, naming the city as additional insured. Each applicant shall execute a hold harmless agreement in a form approved by the city attorney agreeing to defend, indemnify, and hold harmless the city against losses and liabilities incurred solely from the conduct of or operation of the Special Event by the applicant or its officers, employees, volunteers, and agents.

(b) If the Director, in consultation with the city attorney, determines that a particular Special Event does not present significant public liability or property damage exposure for the city or its officers, agents, employees, or volunteers, the city may waive the insurance requirements. The Director may consider the prior history of injury to

persons or property of the group requesting the permit; the prior history of similar groups engaged in similar activities; the scope of the risk; whether the risk can be lessened by adjusting the time, date, place or planned manner of expression; and finally, whether the applicant is willing to make such adjustments.

**Sec. 16-210. Conditions for issuing permit.**

(a) As a condition to issuing a permit, the Director may impose reasonable terms and regulations concerning the time and place of such event; the area and manner of conducting such event; the maximum number of persons participating therein; the regulation of traffic, if required, including the number and type of signs and barricades to be provided by the applicant, if any, together with a plan of their disposition following the event; reasonable decibel levels; and such other requirements as he or she may find reasonable and necessary for the protection of persons and property or as is necessary to coordinate multiple uses of public property, to assure preservation and fair allocation of public spaces, to protect the health and safety of the community and to control vehicular and pedestrian traffic in and around the venue.

(b) The Director may require the applicant to compensate the city for any costs associated with the event, including but not limited to, utility charges and any necessary or appropriate fire, police, paramedic, or parking enforcement, or other services directly connected to or made necessary by the event. The applicant, as a condition to issuing the permit, may be required to bear some or all of such costs and to deposit a surety bond or cash in an amount sufficient to pay the cost of providing these services. Such bond or cash must be deposited with the city no later than thirty (30) days prior to the event. No applicant shall be required to provide or pay for the law enforcement costs to protect its attendees from hostile members of the public or counter-demonstrations.

(c) Issuance of any Special Event permit shall be conditioned on and subject to the right of the city to summarily cancel, restrict or modify such permit in order to facilitate or accommodate any other duly approved or permitted Special Event, celebration or activity. The Director shall mail to the applicant a notice of such cancellation, restriction or modification no later than thirty (30) days prior to the Special Event and shall take reasonable and appropriate actions to reduce, minimize, or eliminate any inconvenience, hardship or burden that may result from the city's action.

**Sec. 16-211. Termination or restriction of a Special Event.**

The city manager or designee may immediately terminate or restrict the conduct of any Special Event if he or she determines that the public health or safety is in imminent danger because of real or threatened disaster, public calamity, riot or other emergency.

**Sec. 16-212. Permit denial or revocation.**

(a) A Special Event permit may be denied or revoked on any of the following grounds:

- (1) The application is not complete or timely;
- (2) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit;
- (3) The building, structure, equipment or location of such Special Event does not comply with or fails to meet the applicable health, zoning, fire or safety requirements imposed by law;
- (4) The proposed area has been or will be unreasonably impacted by another event within 60 days of the scheduled Special Event;
- (5) The proposed Special Event unreasonably restricts public use or access to public spaces;
- (6) The applicant fails to comply with any conditions of approval, including the provision of sufficient personnel staffing to support the Special Event such as traffic management, crowd control, security, public health, sanitation, or other services.
- (7) The applicant has damaged city property or has unpaid debts related to a prior Special Event.

**Sec. 16-213. Display of permit.**

All applicants shall have the Special Event permit in their immediate possession and shall display such permit upon demand from any city representative or shall publically display the permit during the Special Event.

**Sec. 16-214. Use of city name or logo.**

It shall be unlawful for the applicant conducting a Special Event to use the words "the City of Escondido" or "City of Escondido" to suggest or indicate that the event is sponsored by the city or to use facsimile of the seal or logo of the City of Escondido in the promotional material or advertising for the event without the city's written authorization.



**Sec. 16-215. Suspension or revocation of permit.**

(a) A permit for any event hereunder may be summarily suspended or revoked by the Director at any time when he or she has reason to believe that:

(1) Any grounds exist for which the original permit application could have been denied; or

(2) The health, safety or welfare of persons or property would be endangered because of real or threatened disaster, public calamity, riot or other emergency; or

(3) The event is deviating or will significantly or materially deviate from the terms of the proposed event as described in the application or in supplemental information provided to the city; or

(4) The applicant cannot or will not satisfy any condition of the permit.

**Sec. 16-216 – 16-220. Reserved.**

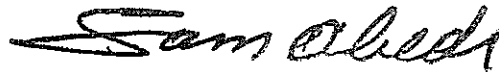
PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 5<sup>th</sup> day of August, 2015 by the following vote to wit:

AYES : Councilmembers: GALLO, MASSON, MORASCO, ABED

NOES : Councilmembers: NONE


ABSENT : Councilmembers: DIAZ

APPROVED:



SAM ABED, Mayor of the  
City of Escondido, California

ATTEST:




DIANE HALVERSON, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2015-05 passed at a regular meeting of the City Council of the City of Escondido held on the 5<sup>th</sup> day of August, 2015, after having been read at the regular meeting of said City Council held on the 8<sup>th</sup> day of July, 2015.



DIANE HALVERSON, City Clerk of the  
City of Escondido, California

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