

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTER 5.60 IN ITS ENTIRETY RELATING TO PARADES AND SPECIAL EVENTS

WHEREAS, in 2003, the Long Beach Area Peace Network was issued a special events permit pursuant to Chapter 5.60 of the Long Beach Municipal Code for a free speech event along Ocean Blvd. Following the event, the Peace Area Network objected to the fees assessed by the City pursuant to Chapter 5.60 and filed a lawsuit in Federal Court. After several years of litigation, the Ninth Circuit Court of Appeals issued a finding that parts of Long Beach Municipal Code Chapter 5.60 were unconstitutional; and

WHEREAS, as a consequence of the Court's ruling, the City Attorney's Office and the Office of Special Events and Filming have rewritten Chapter 5.60 of the Municipal Code and now wish to have the Council readopt this amended Chapter.

NOW, THEREFORE, the City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 5.60 of the Long Beach Municipal Code is amended in its entirety to read as follows:

PARADES AND SPECIAL EVENTS

5.60.010 Definitions.

- A. "City Manager" means the City Manager of the City of Long Beach and his/her designee.
- B. "Departmental Services Charges" means the actual costs

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1 which a department of the City incurs in connection with activities for
2 which a permit is required under this Chapter, including, but not limited to,
3 costs associated with fire safety, traffic and/or pedestrian control, water
4 safety, the closure of streets or intersections, the diverting of traffic, the
5 salaries of City personnel involved in administration or coordination of City
6 services for the event, the cost to the City to provide support personnel,
7 equipment, materials and supplies, and related city costs such as
8 employee overtime. Departmental Services Charges shall not include
9 costs incurred by the City to provide police protection to those engaged in
10 "expressive activity" as that term is defined in this Chapter.

11 C. "Expressive Activity" means conduct, the sole or principal
12 object of which is the expression, dissemination or communication by
13 verbal, visual, literary or auditory means of opinion, views or ideas.
14 Expressive Activity includes, but is not limited to, public oratory and the
15 distribution of literature.

16 D. "Event Organizer" means any person who conducts,
17 manages, promotes, organizes, aids or solicits attendance at a special
18 event.

19 E. "Event" includes a special event or an expressive activity.

20 F. "Person", as used in this Chapter, means any natural
21 person, firm, association, joint venture, joint stock company, partnership,
22 organization, club, company, corporation, business trust or manager,
23 lessee, agent, servant, officer or employee or any of them, except where
24 the context clearly requires a different meaning.

25 G. "Sidewalk" means that portion of a highway, other than the
26 roadway, set apart by curbs, barriers, markings, or other delineation for
27 pedestrian travel.

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H. "Special Event" means:

1. Any organized formation, parade, procession, demonstration or assembly which may include persons, animals, vehicles, or any combination thereof, which is to assemble or travel in unison on any street, sidewalk or other public right-of-way owned or controlled by the City which does not comply with applicable traffic regulations, laws or controls;
or

2. Any organized assemblage of seventy five (75) or more persons at any public place, property or facility which is to gather for a common purpose under the direction or control of a person.

3. Examples of special events include, but are not limited to, concerts, parades, circuses, fairs, festivals, block parties, street fairs, community events, on the water activities (such as boat races), mass participation sports (such as marathons and other running events), athletic or sporting events, and community celebrations and observances conducted on public property or public rights of way.

I. "Special Event Permit" means a permit issued pursuant to this Chapter.

J. "Special Event Venue" means that area for which a special event permit has been issued.

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

5.60.020 Permit - Required.

A. Except as provided by the terms of a permit, lease or contract which has been specifically authorized by the City Council, no person shall conduct or cause to be conducted, participate or engage in,

1 hold, manage, permit or allow another to conduct a special event, in, on or
2 upon any City street, sidewalk, alley, park, way, pier, public place, public
3 property or public right-of-way which is owned or controlled by the City
4 without first having obtained a written permit from the City Manager.

5 B. The City Manager may also approve and permit the sale or
6 use of alcoholic beverages in public areas in connection with a special
7 event. Any denial by the City Manager of approval for a permit to sell or
8 use alcoholic beverages under this subsection may be appealed as
9 provided in Section 5.60.130.

10 C. The City Manager is authorized to issue permits for special
11 events pursuant to the procedures established in this Chapter.

12 D. The City Manager may condition any permit issued pursuant
13 to this Chapter with reasonable requirements concerning the time, place
14 or manner of holding such event as is necessary to coordinate multiple
15 uses of public property, assure preservation of public property and public
16 places, prevent dangerous, unlawful or impermissible uses, protect the
17 safety of persons and property and to control vehicular and pedestrian
18 traffic in and around the venue. Conditions may include, but are not
19 limited to, the following:

20 1. The establishment of an assembly or disbanding area
21 for a parade or like event;

22 2. The accommodation of an event's pedestrian and
23 vehicular traffic, including restricting events to City sidewalks, portions of a
24 City street, or other public right-of-way;

25 3. Conditions designed to avoid or lessen interference
26 with public safety functions and/or emergency service access;

27 4. The number and type of vehicles, animals, or
28 structures to be displayed or used in the event;

1 5. The inspection and approval by City personnel of
2 stages, booths, floats, structures, vehicles or equipment to be used or
3 operated in the event to ensure that such structures or vehicles are safely
4 constructed and can be safely operated, and conform to the requirements
5 of all applicable codes;

6 6. A cleaning deposit if the event includes using
7 structures, displaying or using horses or other large animals, operation of
8 water stations, food distribution or sales, beverage distribution or sales,
9 and/or sale of other goods or services;

10 7. The provision and use of traffic cones or barricades;

11 8. The provision or operation of first aid stations or
12 sanitary facilities, including handicap accessible sanitary facilities;

13 9. The provision of a waste management plan, and the
14 clean up and restoration of the site of the event;

15 10. The use of sound amplification equipment, and
16 restrictions on the amount of noise generated by motors and other
17 equipment used in the course of the event;

18 11. The manner of providing notice of permit conditions to
19 permit participants and those businesses or residents who may be directly
20 affected by the conduct of the event;

21 12. The provision or use of emergency services;

22 13. The reasonable designation of alternate sites, times,
23 dates, or modes for exercising expressive activity;

24 14. The obtaining of any and all business licenses or other
25 necessary permits required by this Code for the sale of food, beverage or
26 other goods or services at the event; and

27 15. The manner by which alcohol sales and service, if any,
28 shall be conducted at the event.

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E. Issuance of a special events permit pursuant to this Chapter does not obligate or require the City to provide City services, equipment or personnel in support of an event although the City Manager may provide such services, equipment or personnel if such are reasonably available and the event organizer makes provisions to reimburse the City for the cost thereof.

5.60.030 Exceptions to the special event permit requirement.

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

1. Funeral processions by a licensed mortuary or funeral home;
2. Activities conducted by a governmental agency acting within the scope of its authority;
3. With the exception of organized fund raisers and block parties, events which take place on streets, sidewalks, or other public rights-of-way owned or controlled by the City including, but not limited to, lawful picketing wherein applicable traffic regulations, laws or controls are complied with;
4. Filming activities governed by Chapter 5.61 of this Code;
5. Expressive activities. If practicable, the organizers should give notice to the City's Special Events Office at least four (4) hours prior to the event informing the City of the date and time of the event and provide an estimate of the approximate number of persons who will be participating.

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1 5.60.040 Permit - Application.

2 A. The application for a permit under this Chapter to conduct or
3 engage in any special event except for event(s) controlled by the
4 Recreation Commission under Chapter 2.54 of this Code, which involves
5 the use of city streets, alleys, sidewalks, parks, piers, ways, public
6 property or public right-of-way owned or controlled by the City shall be
7 filed with the City Manager.

8 B. Applications shall be filed not less than sixty (60) calendar
9 days, nor more than one (1) year before the time it is proposed to conduct
10 the special event, City may adjust, as needed, except that applications for
11 block party permits shall be filed at least ten (10) working days prior to the
12 event.

13 C. Except as otherwise applicable, the City Manager shall,
14 within ten (10) business days, determine whether such application is or is
15 not complete. Notwithstanding the City Manager's acceptance of a
16 completed application, no event date shall be considered confirmed until a
17 special event permit is issued.

18 D. Applications for special events for which a permit is required
19 pursuant to this Chapter, may be filed in advance of the time periods set
20 forth above but in no event more than one (1) year prior to the event date.
21 If an applicant for an event desires to ensure the opportunity for an appeal
22 to the City Council in accordance with subsection 5.60.120, the
23 application shall be filed with the City Manager not less than thirty (30)
24 calendar days, nor more than one year before the time when it is
25 proposed to conduct the event. Failure to file the application at least
26 seventy-five (75) days prior to the proposed activity shall be deemed to be
27 a waiver of an appeal to the City Council and in that event the decision of
28 the City Manager shall be final and the event organizer or other aggrieved

1 person may file or cause to be filed a petition for writ of mandate in state
2 court regarding the validity of the City Manager's decision to grant or deny
3 the application.

4 E. Each application shall be accompanied by a nonrefundable
5 permit application fee in an amount established from time to time by
6 resolution of the City Council. The City Manager shall have the authority, if
7 good cause is shown and the nature of the application reasonably and
8 feasibly lends itself to expedited processing, to consider, grant or deny
9 any application for a permit which is filed later than the time prescribed in
10 this Section.

11 F. Completed applications for a permit authorizing a special
12 event shall be denied, approved, or conditionally approved by the City
13 Manager within thirty (30) days after the City Manager determines that the
14 application is complete.

15 G. Applications shall be upon a form which is furnished by or
16 acceptable to the City Manager. Each application shall contain full,
17 complete and detailed information including, but not limited to, the
18 following:

- 19 1. The name, address and telephone number of the event
20 organizer;
- 21 2. A certification that the event organizer shall be
22 financially responsible for any City fees, departmental services charges or
23 costs that may lawfully be imposed for the event;
- 24 3. The name, address and telephone number of the event
25 organizer, if any, and the chief officer of the event organizer;
- 26 4. A statement of the purpose of the special event;
- 27 5. A statement of any fees to be charged to participants or
28 spectators in connection with the special event;

1 6. The proposed location of the special event including a
2 plot plan depicting the placement of temporary structures or facilities on
3 public property or public rights-of-way;

4 7. The date and times when the special event is to be
5 conducted;

6 8. The approximate times when assembly for, and
7 disbanding of, the special event is to take place;

8 9. Provisions for first aid or emergency medical services,
9 or both, based upon event risk factors;

10 10. Insurance information, if applicable;

11 11. Any other information reasonably required by the City
12 Manager.

13 H. The City Manager may refer the application to such
14 appropriate City departments as he/she deems necessary from the nature
15 of the application for review, evaluation, investigation and
16 recommendations by the departments regarding approval or disapproval
17 of the application.

18 I. The City Manager shall issue a permit under this Chapter if
19 the City Manager finds that the following criteria have been met:

20 1. The proposed use of the property is not governed by or
21 subject to any other permit procedures provided elsewhere in this code or
22 other applicable laws, rules or regulations;

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

25 3. The event will not substantially interrupt public
26 transportation or other vehicular and pedestrian traffic in the area of its
27 location;

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1 4. The event will not conflict with construction or
2 development in the public right of way or at a public facility;

3 5. The event will not require the diversion of public safety
4 or other city employees from their normal duties so as to unreasonably
5 reduce adequate levels of service to any other portion of the City;

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

9 7. The event will not unreasonably interfere with any other
10 special event for which a permit has already been granted or with the
11 provision of City services in support of other scheduled events or scheduled
12 government functions;

13 8. The event will not have an unmitigatable adverse impact
14 upon residential or business access and traffic circulation in the same
15 general venue area;

16 9. If the event is a marathon, it will not occur within one
17 hundred eighty (180) calendar days of another marathon unless such event
18 receives prior approval by the City Council;

19 10. The event will not adversely affect the City's ability to
20 reasonably perform municipal functions or furnish city services;

21 11. The proposed use, event or activity will not have a
22 significant adverse environmental impact;

23 12. In the case of a block party or other similar
24 neighborhood event, the applicants have submitted a petition in favor of the
25 event which has been signed by individuals representing at least sixty-six
26 percent (66%) of the households on the block affected by the permit;

27 13. The provisions of Sections 5.60.080 and 5.60.090, if
28 applicable, have been or will be satisfied.

1 5.60.050 Permit application - Fee.

2 A. Any permit fee, application fee, daily fee, and other
3 additional fee for the use of City streets or other City owned or controlled
4 property pursuant to this Chapter shall be established by the City Council
5 by Resolution.

6 B. Permittee shall pay a permit fee, application fee, daily fee,
7 and other additional fee(s) unless said fee(s) are funded or partially
8 funded by action of the City Council by Resolution.

9 C. An indigent natural person who cannot apply for a permit
10 because of an inability to pay the application fee due to such indigence
11 shall not be required to pay the fee. Application for indigent status shall
12 be made at the time of permit application and shall be accompanied by
13 such relevant information and documentation as may be reasonably
14 necessary to verify such status. For purposes of this Section 5.60.050
15 "indigent natural person" means:

16 1. A person who is receiving benefits pursuant to the
17 Supplemental Security Income (SSI) and State Supplemental Payments
18 (SSP) programs (Sections 12200 to 12205, inclusive, of the California
19 Welfare and Institutions Code), the California Work Opportunity and
20 Responsibility to Kids Act (Cal WORKs) program (Chapter 2, commencing
21 with Section 11200 of Part 3 of Division 9 of the California Welfare and
22 Institutions Code), the Food Stamp program (7 U.S.C. Sec. 2011, et seq.)
23 or Section 17000 of the Welfare and Institutions Code;

24 2. A person whose monthly income is one hundred
25 twenty-five percent (125%) or less of the current monthly poverty line
26 annually established by the Secretary of Health and Human Services
27 pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended;

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D. An organization in which a majority of its members meet the criteria for indigent status, as established in Subsection (b) of this Section, may also be eligible for application fee waiver.

5.60.060 Permit - Denial or revocation.

A. The City Manager may deny any application for a permit or revoke any permit if he/she finds any of the following:

1. The permitted event or activity will unreasonably disrupt traffic within the City; or
2. The permitted event or activity will unreasonably interfere with access to police or fire stations, or other public safety facilities; or
3. The location of the event or activity will cause undue hardship to adjacent businesses or residents; or
4. The permitted event or activity will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the City; or
5. The application contains incomplete, false or misleading information; or
6. The City Manager is unable to make all of the relevant findings pursuant to Subsection 5.60.040.I; or
7. The applicant fails to comply with all terms of this Chapter including failure to remit all fees and deposits, or fails to provide proof of insurance and/or an indemnification agreement as required by this Chapter; or
8. The event is proposed for a time and place for which another event permit has been or will be issued to a prior applicant; or

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1 9. The proposed area for the assembly or for the set up or
2 dispersal of a parade or demonstration could not physically accommodate
3 the number of participants expected to participate in the assembly, parade
4 or demonstration; or

5 10. The parade, assembly or demonstration is proposed to
6 take place on the roadway portion of any street in a commercial or retail
7 zone between the hours of seven o'clock (7:00) A.M. and ten o'clock
8 (10:00) A.M. or between the hours of four o'clock (4:00) P.M. and six-thirty
9 o'clock (6:30) P.M., Monday through Friday, unless the parade, assembly or
10 demonstration will occur on a national holiday; or

11 11. The parade, assembly or demonstration will violate any
12 federal, state or local law or regulation; or

13 12. The applicant is legally incompetent to contract or to
14 sue and be sued; or

15 13. The applicant or the person or entity on whose behalf
16 the application for permit was made has on prior occasions damaged city
17 property and has not paid in full for such damage, or has other outstanding
18 and unpaid debts to the City; or

19 14. The proposed event would present an unreasonable
20 danger to the health or safety of the applicant, spectators, city employees,
21 or members of the public; or

22 15. The applicant has not complied or cannot comply with
23 applicable licensure requirements, ordinances or regulations of the City
24 concerning the sale, offering for sale, or distribution of any goods or
25 services.

26 B. The City Manager may deny any application for a permit or
27 revoke any permit if the City Manager determines that the event sponsor
28 or any agent, employee or associate of any such event organizer has

1 willfully made any false or misleading statement in an application or has
2 not fully complied with the requirements of this Chapter or has violated
3 any of the provisions of this Chapter or the provisions of any other
4 applicable law, rule or regulation.

5 C. An event organizer whose permit application is denied, or
6 whose permit is revoked, pursuant to this Section shall be immediately
7 notified of the action of denial or revocation, which notification shall
8 contain a statement setting forth the reasons for said denial or revocation
9 as well as a reference to the appeal provisions set forth in Section
10 5.60.130. Notification, pursuant to this Subsection, shall be deemed
11 satisfied when the notice is placed, postage prepaid, in the United States
12 mail, certified mail, return receipt requested, and addressed to the
13 applicant at the address shown on the permit application.

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15 5.60.070 Hold harmless.

16 A. Each Permittee shall execute a hold harmless agreement in
17 a form approved by the City agreeing to defend, indemnify, and hold
18 harmless the City against losses and liabilities incurred from the conduct
19 of Permittee or its officers, employees, and agents.

20 B. Except for block parties, concurrent with the issuance of a
21 permit under this Chapter and as a condition precedent to the
22 effectiveness of the permit, the Permittee shall procure and maintain in full
23 force and effect during the term of the permit insurance as prescribed in
24 regulations issued by the City Manager pursuant to Section 2.84.040.

25 C. A claim for exclusion and alternative treatment under
26 Subsection 5.60.080.B shall be filed with and at the same time as an
27 application for a permit, and an agreement or proof of insurance, as
28 applicable, shall be provided prior to permit issuance. The City Manager

1 or his/her designee may require such proof and documentation as he/she
2 may deem reasonably necessary to verify the constitutionally protected
3 status of the parade or event and the applicability of Subsection
4 5.60.080.B.

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6 5.60.080 Departmental Services Charge.

7 A. As a condition to permitting a special event, Permittee may
8 be required to post a security deposit to cover any departmental service
9 charges incurred.

10 B. In addition to the payment of the nonrefundable permit
11 application fee or daily fee, a Permittee shall pay the City for all City
12 departmental services charges incurred in connection with or due to the
13 Permittee's activities under the permit. Additionally, if City property is
14 destroyed or damaged by reason of Permittee's use, event or activity, the
15 Permittee shall reimburse the City for the actual replacement or repair
16 cost of the destroyed or damaged property.

17 C. City departments shall submit the final invoices and billings
18 for departmental services charges to the City Manager or no later than
19 twenty (20) business days after the event giving rise to the issuance of a
20 permit.

21 D. A Permittee who claims inability to pay departmental service
22 charges due to indigency shall have these charges waived in accordance
23 with the indigency guidelines below. Application for indigent status shall
24 be made at the time of permit application and shall be accompanied by
25 such relevant information and documentation as may, in the opinion of the
26 City Manager or designee, be reasonably necessary to verify such status.
27 For purposes of this Section 5.60.080, "Indigent Natural Person" means:

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1 1. A person who is receiving benefits pursuant to the
2 Supplemental Security Income (SSI) and State Supplemental Payments
3 (SSP) programs (Sections 12200 to 12205, inclusive, of the California
4 Welfare and Institutions Code), the California Work Opportunity and
5 Responsibility to Kids Act (CalWORKs) program (Chapter 2, commencing
6 with Section 11200 of Part 3 of Division 9 of the California Welfare and
7 Institutions Code), the Food Stamp program (7 U.S.C. Sec. 2011, et seq. or
8 Section 17000 of the Welfare and Institutions Code;

9 2. A person whose monthly income is one hundred
10 twenty-five percent (125%) or less of the current monthly poverty line
11 annually established by the Secretary of Health and Human Services
12 pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended.

13 E. An organization in which a majority of the members meet the
14 criteria for indigent status, as established in Subsection (D) of this
15 Section, may also be eligible for waiver of departmental service charges.

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17 5.60.090 Refunds.

18 If a Permittee is unable to hold or conduct a use, event or activity
19 because of inclement weather or due to some other cause not within the
20 Permittee's control, and the Permittee submits a written request for the
21 refund of such fees to the City Manager's office within ten (10) days after
22 the date that the use, event or activity was to have been held or conducted,
23 the City Manager may authorize the refund of the fees or a pro rata portion
24 thereof, except for actual costs incurred by the City at the time of
25 cancellation and the nonrefundable application fees, which have been paid
26 by the Permittee to the City in connection with a permit issued under this
27 Chapter.
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5.60.100 Interfering with activity prohibited.

It is unlawful for any person to obstruct, impede or interfere with any authorized assembly, person, vehicle or animal participating in a special event for which a special event permit has been issued.

5.60.110 Penalty for violation.

Any person who intentionally violates any of the provisions of this Chapter shall be guilty of a misdemeanor.

5.60.120 Appeals.

A. Except as provided in this Chapter, any person aggrieved by the issuance, denial or revocation of a permit pursuant to this Chapter may appeal such decision to the City Council by filing a written notice of such appeal with the City Clerk within ten (10) business days of the decision of the City Manager giving rise to said appeal. Such appeal shall set forth, with particularity, the facts upon which the appeal is being made. The City Council shall, within sixty (60) days of receiving such notice of appeal, hold a hearing. At such hearing, the aggrieved party is entitled to be heard and present evidence on his/her behalf. The City Council shall determine the merits of the appeal, and the City Council's determination to grant or deny the appeal shall be final. When the necessity for a timely response so requires, the City Council may refer to the matter to a Hearing Officer in accordance with the provisions of Chapter 2.93.

5.60.130 Rules and regulations.

The City Manager is authorized to promulgate additional policies, rules and regulations that are consistent with and that further the provisions set forth within this Chapter and the provisions of law that pertain to the

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conduct and operation of a special event.

5.60.140 Unlawful to use city name without authorization.

It is unlawful for any event organizer to use in the title of the event the words "The City of Long Beach" or "City of Long Beach", or facsimile of the seal or logo of the City of Long Beach without City's written authorization.

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