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ORD-24

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May 7, 2013

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 5.60, relating to parades and special events, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide); and

Recommendation to declare ordinance amending the Long Beach Municipal Code by amending and restating Chapter 5.61, relating to filming activities, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

In 2003, the City issued the Long Beach Area Peace Network a special events permit pursuant to Chapter 5.60 of the Long Beach Municipal Code for a free speech event along Ocean Boulevard. Following the event, the City sought reimbursement for costs associated with the event pursuant to Chapter 5.60. The Peace Area Network objected to the City's fee assessment and filed a lawsuit in Federal Court alleging, among other things, that the fee assessment violated their constitutional right to free speech. After several years of litigation, the Ninth Circuit Court of Appeals issued a finding that parts of Municipal Code Chapter 5.60 were unconstitutional.

As a consequence of the Court's ruling, the City Attorney's Office, with assistance from the City Manager's Office and the Office of Special Events and Filming has revised Chapters 5.60 and 5.61 of the Municipal Code in their entirety. The revised Chapter 5.60 primarily addresses:

1. Redefining what qualifies as a special event;
2. Establishing criteria for waiving special event fees; and
3. The indemnification requirements.

Revisions were made in Chapter 5.61 of the Municipal Code in order to make Chapter 5.61 consistent with the changes that were made in Chapter 5.60.

TIMING CONSIDERATIONS

City Council approval is requested to restore the permit authority of the Office of Special Events and Filming for citywide special event and filming activities.

FISCAL IMPACT

It is highly unlikely any new revenues will be generated by the revision of the Parades and Special Events and Filming Activity Ordinances.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

ROBERT E. SHANNON, City Attorney

By


GARY J. ANDERSON
DEPUTY CITY ATTORNEY

GJA/jp

Attachments:

Redline of LBMC Chapter 5.60 and 5.61

REDLINE

Chapter 5.60 – 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. "Demonstration" means any formation, procession or assembly of persons for the purpose of expressive activity, who intend to or do assemble or travel in unison on any street, sidewalk or other public right-of-way owned or controlled by the city in a manner that does not comply with normal or usual traffic regulations, laws or controls.~~

~~B.C.~~ "Departmental ~~s~~Services ~~C~~charges" means the actual costs which a department of the city incurs in connection with activities for which a permit is required under this chapter, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, water safety, the closure of streets or intersections, the diverting of traffic, the salaries of city personnel involved in administration or coordination of city services for the event, the cost to the city to provide support personnel, equipment, materials and supplies, and related city costs such as ~~fringe benefits or~~ employee overtime. Departmental ~~S~~services ~~C~~charges shall not include costs incurred by the city to provide police protection to those engaged in "expressive activity" as that term is defined in this chapter.

~~C.D.~~ "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 and the distribution of literature.

~~D.E.~~ "Event organizer" means any person who conducts, manages, promotes, organizes, aids or solicits attendance at a special event.

~~E.F.~~ "Event" includes a special event or ~~a demonstration~~ an expressive activity.

~~F.G.~~ "Person", as used in this chapter, means any natural person, firm, association,

1 joint venture, joint stock company, partnership, organization, club, company, corporation,
2 business trust or manager, lessee, agent, servant, officer or employee or any of them,
3 except where the context clearly requires a different meaning.

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

6 H.I. "Special event" means:

- 7 1. Any organized formation, parade, procession, demonstration or
8 assembly which may include persons, animals, vehicles, or any combination
9 thereof, which is to assemble or travel in unison on any street, sidewalk or other
10 public right-of-way owned or controlled by the city which does not comply with
11 applicable traffic regulations, laws or controls; or
- 12 2. Any organized assemblage of seventy five (75) or more persons at any
13 public place, property or facility which is to gather for a common purpose under the
14 direction or control of a person; or

15 ~~3. Any other organized activity involving seventy five (75) or more persons~~
16 ~~conducted by a person for a common or collective use, purpose or benefit which~~
17 ~~involves the use of, or has an impact on, public property or facilities and which~~
18 ~~may require the provision of city public services in response thereto.~~

19 3.4. Examples of special events include, but are not limited to, concerts,
20 parades, circuses, fairs, festivals, block parties, street fairs, community events, on
21 the water activities (such as boat races), mass participation sports (such as
22 marathons and other running events), athletic or sporting events, and community
23 celebrations and observances conducted on public property or public rights of
24 way.

25 I.J. "Special Event Permit" means a permit issued pursuant to this chapter.

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

28 K.L. "Street" means a way or place of whatever nature, publicly maintained and open to

1 ~~use of~~ the public for purposes of vehicular travel. Street includes highways or alleys.

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3 5.60.020 Permit - Required.

4 A. Except as provided ~~in chapter 2.54 or otherwise~~ by ~~this code or pursuant to~~ the
5 terms of a permit, lease or contract which has been specifically authorized by the city
6 council, no person shall conduct or cause to be conducted, participate or engage in, hold,
7 manage, permit or allow another to conduct a special event, in, on or upon any city street,
8 sidewalk, alley, park, way, pier, public place, public property or public right-of-way which
9 is owned or controlled by the city without first having obtained a written permit from the
10 city manager.

11 B. The city manager may also approve and permit the sale or use of alcoholic
12 beverages in public areas in connection with a special event ~~where it is not expressly~~
13 ~~prohibited by this code provided that such sale or use shall, at all times, comply with all~~
14 ~~other applicable provisions of law~~. Any denial by the city manager of approval for a permit
15 to sell or use alcoholic beverages under this subsection may be appealed as provided in
16 section 5.60.130.

17 C. The city manager is authorized to issue permits for special events pursuant to the
18 procedures established in this chapter.

19 D. The city manager may condition any permit issued pursuant to this chapter with
20 reasonable requirements concerning the time, place or manner of holding such event as
21 is necessary to coordinate multiple uses of public property, assure preservation of public
22 property and public places, prevent dangerous, unlawful or impermissible uses, protect
23 the safety of persons and property and to control vehicular and pedestrian traffic in and
24 around the venue. ~~, provided that such requirements shall not be imposed in a manner~~
25 ~~that will unreasonably restrict expressive or other activity protected by the California or~~
26 ~~United States constitutions. Permissible conditions are the following:~~ Conditions may
27 include, but are not limited to, the following:

28 1. The establishment of an assembly or disbanding area for a parade or

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- like event;
- 2. The accommodation of an event's pedestrian and vehicular traffic, including restricting events to city sidewalks, portions of a city street, or other public right-of-way;
- 3. Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access;
- 4. The number and type of vehicles, animals, or structures to be displayed or used in the event;
- 5. The inspection and approval by city personnel of stages, booths, floats, structures, vehicles or equipment to be used or operated in the event to ensure that such structures or vehicles are safely constructed and can be safely operated, and conform to the requirements of all applicable codes;
- 6. A cleaning deposit if the event includes using structures, displaying or using horses or other large animals, operation of water stations, food distribution or sales, beverage distribution or sales, and/or sale of other goods or services;
- 7. The provision and use of traffic cones or barricades;
- 8. The provision or operation of first aid stations or sanitary facilities, including handicap accessible sanitary facilities;
- 9. The provision of a waste management plan, and the clean up and restoration of the site of the event;
- 10. The use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the event;
- 11. The manner of providing notice of permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the event;
- 12. The provision or use of emergency services;

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

3 14. The obtaining of any and all business licenses or other necessary
4 permits required by this code for the sale of food, beverage or other goods or
5 services at the event; and

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

8 E. Issuance of a special events permit pursuant to this chapter does not obligate or
9 require the city to provide city services, equipment or personnel in support of an event
10 although the city manager may provide such services, equipment or personnel if such are
11 reasonably available and the event organizer makes provisions to reimburse the city for
12 the cost thereof.

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14 5.60.030 Exceptions to the special event permit requirement.

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

16 1. Funeral processions by a licensed mortuary or funeral home;

17 2. Activities conducted by a governmental agency acting within the
18 scope of its authority;

19 3. With the exception of organized fund raisers and block parties,
20 events which take place on streets, sidewalks, or other public rights-of-way owned
21 or controlled by the city including, but not limited to, lawful picketing wherein
22 applicable traffic regulations, laws or controls are complied with;

23 4. Filming activities governed by chapter 5.61 of this code;

24 5. Expressive activities conducted at Civic Center Plaza are exempt If
25 practicable, the organizers should give notice to the City's Special Events Office at
26 least four hours prior to the event informing the City of the date and time of the
27 event and provide an estimate of the approximate number of persons who will be
28 participating. Spontaneous parades, assemblies or demonstrations involving

1 ~~expressive activity and which are occasioned by news or affairs coming into public~~
2 ~~knowledge within five (5) days of such parade, assembly or demonstration,~~
3 ~~provided that the organizers thereof give written notice to the city manager at least~~
4 ~~twenty four (24) hours prior to such parade or assembly. Such written notice shall~~
5 ~~contain all of the following information:~~

6 a. ~~The name, address and telephone number of the person or~~
7 ~~persons seeking to conduct the parade or assembly. This person or these~~
8 ~~persons shall be considered a permittee for the purposes of this section;~~

9 b. ~~The name, address and telephone number of the~~
10 ~~headquarters of the organization, if any, and of the organizer or responsible~~
11 ~~head of such organization by whom or on whose behalf the parade or~~
12 ~~assembly is proposed to be conducted;~~

13 c. ~~The name, address and telephone number of the person who~~
14 ~~will chair the parade or assembly and who will be responsible for its~~
15 ~~conduct;~~

16 d. ~~The location and date of the proposed parade or assembly,~~
17 ~~including the assembly area, disbanding area, and the route to be traveled;~~

18 e. ~~An estimate of the approximate number of persons who will~~
19 ~~be participating in the parade or assembly and an estimate of the~~
20 ~~approximate number of persons who will be observing the parade or~~
21 ~~assembly;~~

22 f. ~~The time at which the parade or assembly will start and~~
23 ~~conclude;~~

24 g. ~~The type of security or other arrangements that will be~~
25 ~~provided to assure that participants are properly directed.~~

26 ~~B. The city manager may impose reasonable time, place and manner restrictions on~~
27 ~~expressive activity consistent with Section 5.06.020(D) spontaneous parades, assemblies~~
28 ~~or demonstrations governed by this section whether or not said activities are governed by~~

1 ~~the permit requirements set forth in this chapter.~~

2 ~~C. — The city manager may deny permission for expressive activity to conduct a~~
3 ~~spontaneous parade, assembly or demonstration if the city manager makes a finding~~
4 ~~requiring denial pursuant to section 5.60.070. Such finding by the city manager shall be~~
5 ~~made no later than three six (36) hours before the scheduled start time for the event. If~~
6 ~~the city manager makes a finding pursuant to section 5.60.070, the city manager shall~~
7 ~~immediately provide notice of the denial, including the reason or reasons for the denial,~~
8 ~~by telephone to the permittee and shall also provide written notice of the denial including~~
9 ~~the reason for the denial. If the permittee provides a fax number for the purpose of~~
10 ~~receiving notices, the city manager shall provide written notice of the denial by fax~~
11 ~~immediately upon making the denial decision. In lieu of denial, the city manager may~~
12 ~~propose to the applicant an alternative time, route, venue or manner of conducting the~~
13 ~~activity which alternative would be acceptable to the city and which would obviate any~~
14 ~~finding made pursuant to section 5.60.070.~~

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16 5.60.040 Permit - Application.

17 A. The application for a permit under this chapter to conduct or engage in any special
18 event except for ~~any special~~ event(s) controlled by the recreation commission under
19 chapter 2.54 of this code, which involves the use of city streets, alleys, sidewalks, parks,
20 piers, ways, public property or public right-of-way owned or controlled by the city shall be
21 filed with the city manager.

22 B. Applications shall be filed not less than sixty (60) calendar days, nor more than
23 one year before the time it is proposed to conduct the special event, City may adjust, as
24 needed, except that applications for block party permits shall be filed at least ten (10)
25 working days prior to the event. ~~and except that applications for expressive activities~~
26 ~~shall be filed in accordance with subsection D of this section.~~

27 C. Except as otherwise applicable, the city manager shall, within ten (10) business
28 days, determine whether such application is or is not complete. ~~In the case of an event~~

1 ~~involving expressive activity, the city manager shall determine whether or not such~~
2 ~~application is complete within twenty four (24) hours of said application being submitted~~
3 ~~to the city manager.~~ Notwithstanding the city manager's acceptance of a completed
4 application, no event date shall be considered confirmed until a special event permit is
5 issued.

6 ~~D. Unless otherwise specified in this chapter, an application for a special event by a~~
7 ~~person engaging in expressive activity for which a permit is required pursuant to this~~
8 ~~chapter shall be filed as follows:~~

Permitted Activity	Must Be Filed Within
Involves Use Of	Specified Number
	Of Working Days
	Of Prior To The Event
Streets, highways and thoroughfares	10
Alleys and other rights-of-way other than	5
sidewalks	
Sidewalks	3
Parks	3
Waterways and piers	3
Other	3

22 ~~E.D.~~ Applications for special events ~~involving expressive activity or block parties,~~ for
23 which a permit is required pursuant to this chapter, may be filed in advance of the time
24 periods set forth above but in no event more than one year prior to the event date. If an
25 applicant for an event ~~involving an expressive activity or block party~~ desires to ensure the
26 opportunity for an appeal to the city council in accordance with subsection 5.60.130., the
27 application shall be filed with the city manager not less than thirty (30) calendar days, nor
28 more than one year before the time when it is proposed to conduct the event. Failure to

1 file the application at least thirty (30) days prior to the proposed activity shall be deemed
2 to be a waiver of an appeal to the city council and in that event the decision of the city
3 manager shall be final and the event organizer or other aggrieved person may file or
4 cause to be filed a petition for writ of mandate in state court regarding the validity of the
5 city manager's decision to grant or deny the application.

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

12 ~~GF.~~ Completed applications for a permit authorizing a special event shall be denied,
13 approved, or conditionally approved by the city manager within thirty (30) days after the
14 city manager determines that the application is complete. ~~Completed applications for a~~
15 ~~permit involving "expressive activity" as defined in this chapter shall be denied, approved,~~
16 ~~or conditionally approved by the city manager within two (2) business days after the city~~
17 ~~manager determines that the application is complete. In the case of expressive activity,~~
18 ~~the city manager shall promptly attempt to notify the applicant orally, and provide written~~
19 ~~notification to the applicant as soon as it is reasonably practical to do so. Such notice~~
20 ~~shall provide detailed facts and reasons for any denial or conditional approval. The city~~
21 ~~manager shall consult with the city attorney before denying or conditionally approving a~~
22 ~~permit involving "expressive activity" (including all activities wherein the applicant claims~~
23 ~~or contends that the proposed event involves expressive activity) as that term is defined~~
24 ~~in this chapter.~~

25 ~~H.G.~~ Applications shall be upon a form which is furnished by or acceptable to the city
26 manager. Each application shall contain full, complete and detailed information including,
27 but not limited to, the following:

- 28 ~~to~~-1. The name, address and telephone number of the event organizer;

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2. A certification that the event organizer shall be financially responsible for any city fees, departmental services charges or costs that may lawfully be imposed for the event;

3. The name, address and telephone number of the event organizer, if any, and the chief officer of the event organizer;

~~4. If the special event is designed to be held by, on behalf of, or for any organization other than the event organizer, the event organizer for the special event permit shall file a written communication from such organization:~~

~~a. Authorizing the event organizer apply for the special event permit on its behalf;~~

~~b. Certifying that the event organizer and its principal shall be financially responsible for any city fees, departmental services charges or costs that may lawfully be imposed for the event;~~

~~5. A copy of the tax exemption letter issued for any applicant claiming to be a tax exempt nonprofit organization;~~ 6. A statement of the purpose of the special event;

~~75.~~ A statement of any fees to be charged to participants or spectators in connection with the special event;

~~86.~~ The proposed location of the special event including a plot plan depicting the placement of temporary structures or facilities on public property or public rights-of-way;

~~97.~~ The date and times when the special event is to be conducted;

~~108.~~ The approximate times when assembly for, and disbanding of, the special event is to take place;

~~11.~~ The proposed locations of the assembly or production area;

~~12.~~ In the case of a parade, marathon or other similar event, the specific proposed site or route, including a map and written narrative of the route;

~~13.~~ The proposed site for any disbanding area;

- 1 ~~14.~~ Proposed alternate routes, sites or times, where applicable;
- 2 ~~15.~~ The approximate number of persons, animals or vehicles that will
- 3 participate in the special event;
- 4 ~~16.~~ The kinds of animals anticipated to be part of the special event;
- 5 ~~17.~~ A description of the types of vehicles to be used in the special event;
- 6 ~~18.~~ The number of bands or other musical units and the nature of any
- 7 equipment to be used to produce sounds or noise;
- 8 ~~19.~~ Other equipment or services necessary to conduct the special event
- 9 with due regard for participant and public health and safety;
- 10 ~~20.~~ The number of persons proposed or required to monitor or facilitate
- 11 the special event and provide spectator or participant control and direction for
- 12 events using city streets, sidewalks, or facilities;
- 13 ~~219.~~ Provisions for first aid or emergency medical services, or both, based
- 14 upon event risk factors;
- 15 ~~2210.~~ Insurance information, if applicable;
- 16 ~~23.~~ Any special or unusual requirements that may be imposed or created
- 17 by virtue of the proposed event activity;
- 18 ~~24~~ 11. Any other information reasonably required by the city manager.

19 ~~H.~~ The City Manager ~~shall~~ ~~may~~ refer the application to such appropriate city
20 departments as he/she deems necessary from the nature of the application for review,
21 evaluation, investigation and recommendations by the departments regarding approval or
22 disapproval of the application.

23 ~~J.~~ The city manager shall issue a permit under this chapter if the city manager finds
24 that the following criteria have been met:

- 25 1. The proposed use of the property is not governed by or subject to
- 26 any other permit procedures provided elsewhere in this code or other applicable
- 27 laws, rules or regulations;
- 28 2. The event will not substantially interrupt the safe and orderly

- 1 movement of aerial or marine navigation;
- 2 3. The event will not substantially interrupt public transportation or other
- 3 vehicular and pedestrian traffic in the area of its location;
- 4 4. The event will not conflict with construction or development in the
- 5 public right of way or at a public facility;
- 6 5. The event will not require the diversion of public safety or other city
- 7 employees from their normal duties so as to unreasonably reduce adequate levels
- 8 of service to any other portion of the city;
- 9 6. The concentration of persons, animals or vehicles will not
- 10 unreasonably interfere with the movement of police, fire, ambulance, and other
- 11 public safety or emergency vehicles on the streets;
- 12 7. The event will not unreasonably interfere with any other special
- 13 event for which a permit has already been granted or with the provision of city
- 14 services in support of other scheduled events or scheduled government functions;
- 15 8. The event will not have an unmitigatable adverse impact upon
- 16 residential or business access and traffic circulation in the same general venue
- 17 area;
- 18 9. If the event is a marathon, it will not occur within one hundred eighty
- 19 (180) calendar days of another marathon unless such event receives prior
- 20 approval by the city council;
- 21 10. The event will not adversely affect the city's ability to reasonably
- 22 perform municipal functions or furnish city services;
- 23 11. The proposed use, event or activity will not have a significant
- 24 adverse environmental impact;
- 25 12. ~~That it~~ In the case of a block party or other similar neighborhood
- 26 event, the applicants have submitted a petition in favor of the event which has
- 27 been signed by individuals representing at least sixty six percent (66%) of the
- 28 households on the block affected by the permit;

1 13. ~~That t~~The provisions of sections 5.60.080 and 5.60.090, if applicable,
2 have been or will be satisfied.

3 ~~K. In determining whether to approve a permit application for an event involving~~
4 ~~expressive activity, no consideration may be given to the message of the event, the~~
5 ~~content of the speech, the identity or associational relationships of the event organizer or~~
6 ~~its members or affiliates, or to any assumptions or predictions as to the amount of~~
7 ~~hostility which may be aroused in the public by the content of the speech or the message~~
8 ~~conveyed during the event.~~

9
10 5.60.050 Permit application - Fee.

11 A. ~~Any permit fee, application fee, daily fee, and other additional fee (other than~~
12 ~~Departmental Services Charges) for the use of City streets or other City owned or~~
13 ~~controlled property pursuant to this chapter shall be established by the City Council by~~
14 ~~Resolution.~~

15 ~~Except as otherwise provided by this chapter, or when funded or waived by council~~
16 ~~resolution or ordinance, or other applicable law, rule or regulation, or by the terms of a~~
17 ~~permit, license, lease or contract which has been specifically authorized by the city~~
18 ~~council, any permit fee, application fee, daily fee, and other additional fee (other than~~
19 ~~departmental services charges) for the use of city streets or other city owned or~~
20 ~~controlled property pursuant to this chapter shall be established by the city council by~~
21 ~~resolution.~~

22 B. ~~Permittee shall pay an~~ Permit Fee, Application Fee, Daily Fee, and other
23 ~~additional fees~~ application fee unless said application fees is- are funded or partially
24 ~~funded by action of the City Council by Resolution.~~

25 C. ~~B. An indigent natural person who cannot apply for a permit because of an inability~~
26 ~~to pay the application fee due to such indigence shall not be required to pay the fee.~~
27 ~~Application for indigent status shall be made at the time of permit application and shall be~~
28 ~~accompanied by such relevant information and documentation as may, be reasonably~~

1 necessary to verify such status. For purposes of this Section 5.60.050 "indigent natural
2 person" means:

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

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

15 D. An organization in which a majority of its members meet the criteria for indigent
16 status, as established in subsection (b) of this section, may also be eligible for application
17 fee waiver. Any indigent natural person who intends to engage in "expressive activity" as
18 defined in this chapter who cannot apply for a permit because of an inability arising from
19 such indigence to pay the application fee shall not be required to pay the fee. Application
20 for indigent status shall be made at the time of permit application and shall be
21 accompanied by such relevant information and documentation as may, in the opinion of
22 the city manager or his/her designee, be reasonably necessary to verify such status. For
23 purposes of this section, "indigent natural person" includes, but is not limited to, a person
24 eligible for county relief and support as an indigent person under section 17000 et seq.,
25 of the California Welfare and Institutions Code or as said section(s) is/are amended from
26 time to time.

27
28 5.60.060 — Permit Term.

1 ~~Any permit issued under this chapter shall not be for a period of more than~~
2 ~~three (3) two (2) consecutive days except as otherwise provided in this code; however,~~
3 ~~the city manager, upon timely application by a permittee, may extend the duration of any~~
4 ~~permit, except as otherwise provided in this code, for one additional period of not more~~
5 ~~than three (3) consecutive days if the city manager finds that all criteria set forth in~~
6 ~~subsection 5.60.040.J are being met and will continue to be met during the period of term~~
7 ~~extension.~~

8 ~~5.60.070~~ 5.60.060 Permit - Denial or revocation.

9 A. The city manager may deny any application for a permit or revoke any permit if
10 he/she finds any of the following:

- 11 1. The permitted event or activity will unreasonably disrupt traffic within
12 the city; or
- 13 2. The permitted event or activity will unreasonably interfere with
14 access to police or fire stations, or other public safety facilities; or
- 15 3. The location of the event or activity will cause undue hardship to
16 adjacent businesses or residents; or
- 17 4. The permitted event or activity will require the diversion of so many
18 public employees that allowing the event would unreasonably deny service to the
19 remainder of the city; or
- 20 5. The application contains incomplete, false or misleading information;
21 or
- 22 6. The city manager is unable to make all of the relevant findings
23 pursuant to subsection 5.60.040.~~J~~; or
- 24 7. The applicant fails to comply with all terms of this chapter including
25 failure to remit all fees and deposits, or fails to provide proof of insurance and/or
26 an indemnification agreement as required by this chapter; or
- 27 8. The event is proposed for a time and place for which another event
28 permit has been or will be issued to a prior applicant; or

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

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

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

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

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

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

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

23 B. The city manager may deny any application for a permit or revoke any permit if the
24 city manager determines that the event sponsor or any agent, employee or associate of
25 any such event organizer has willfully made any false or misleading statement in an
26 application or has not fully complied with the requirements of this chapter or has violated
27 any of the provisions of this chapter or the provisions of any other applicable law, rule or
28 regulation.

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

9
10 ~~5.60.080~~ 5.60.070 Insurance Hold harmless.

11 ~~A. Each permit shall expressly provide that the permittee agrees to defend, protect,~~
12 ~~indemnify and hold the city, its officers, employees and agents free and harmless from~~
13 ~~and against any and all claims, damages, expenses, loss or liability of any kind or nature~~
14 ~~whatsoever arising out of, or resulting from, the alleged acts or omissions of permittee, its~~
15 ~~officers, agents or employees in connection with the permitted event or activity; and the~~
16 ~~permit shall expressly provide that the permittee shall, at permittee's own cost, risk and~~
17 ~~expense, defend any and all claims or legal actions that may be commenced or filed~~
18 ~~against the city, its officers, agents or employees, and that permittee shall pay any~~
19 ~~settlement entered into and shall satisfy any judgment that may be rendered against the~~
20 ~~city, its officers, agents or employees as a result of the alleged acts or omissions of~~
21 ~~permittee or permittee's officers, agents or employees in connection with the uses, events~~
22 ~~or activities under the permit.~~

23 A. Each Permittee shall execute a hold harmless agreement in a form approved by
24 the city agreeing to defend, indemnify, and hold harmless the city against losses and
25 liabilities incurred from the conduct of Permittee or its officers, employees, and agents.

26 B. Except for block parties, concurrent with the issuance of a permit under this
27 chapter and as a condition precedent to the effectiveness of the permit, the permittee
28 shall procure and maintain in full force and effect during the term of the permit insurance

1 as prescribed in regulations issued by the city manager pursuant to section 2.84.040.

2 ~~C. If the city manager determines, after consultation with the city's risk manager and~~
3 ~~the city attorney, that a particular use, event or activity does not present a substantial or~~
4 ~~significant public liability or property damage exposure for the city or its officers, agents~~
5 ~~and employees, the city manager may give a written waiver of the insurance~~
6 ~~requirements of this section.~~

7 ~~CD. The insurance requirement set forth in this section shall not be construed to apply~~
8 ~~to parades or special events permitted under this chapter 5.60 involving expressive~~
9 ~~activity which enjoy protection under the United States or California constitutions except~~
10 ~~that such parades or special events shall be required to either: (1) agree to indemnify,~~
11 ~~protect, defend and hold harmless the city, its officers and employees against all claims,~~
12 ~~damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or~~
13 ~~resulting from, the alleged willful or negligent acts or omissions of permittee, its officers,~~
14 ~~agents or employees in connection with the permitted parade, event or activity; or (2)~~
15 ~~agree to redesign or reschedule the permitted event to respond to specific risks, hazards~~
16 ~~and dangers to the public health and safety identified by the city manager as being~~
17 ~~reasonably foreseeable consequences of the permitted parade or special event; or (3)~~
18 ~~provide insurance coverage as required by subsection 5.60.080.B.~~

19 CE. A claim for exclusion and alternative treatment under subsection 5.60.080.~~D~~B
20 shall be filed with and at the same time as an application for a permit, and an agreement
21 or proof of insurance, as applicable, shall be provided prior to permit issuance. The city
22 manager or his/her designee may require such proof and documentation as he/she may
23 deem reasonably necessary to verify the constitutionally protected status of the parade or
24 event and the applicability of subsection 5.60.080.~~DB~~.

25
26 ~~5.60.090~~ 5.60.080 Departmental Services Charge.

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

1 ~~A.B.~~ In addition to the payment of the nonrefundable permit application fee or daily fee,
2 a permittee shall pay the city for all city departmental services charges incurred in
3 connection with or due to the permittee's activities under the permit. ~~unless said~~
4 ~~departmental services charges are funded or partially funded by an action of the City~~
5 ~~Council.~~ Additionally, if city property is destroyed or damaged by reason of permittee's
6 use, event or activity, the permittee shall reimburse the city for the actual replacement or
7 repair cost of the destroyed or damaged property.

8 ~~B.C.~~ City departments shall submit the final invoices and billings for departmental
9 services charges to the city manager or no later than twenty (20) business days after the
10 event giving rise to the issuance of a permit.

11 ~~C.— The city manager shall determine the type of permitted parade, event or activity~~
12 ~~and calculate the final departmental services charge based on the following formulas,~~
13 ~~depending upon whether or not the event is privately funded or is funded in whole or in~~
14 ~~part by the city.~~

15 1.— ~~Type A is an event which is privately funded and the permittee will~~
16 ~~pay one hundred percent (100%) of the applicable fees or departmental~~
17 ~~services charges;~~

18 2.— ~~Type B is an event which is cosponsored by the city and the noncity~~
19 ~~permittee will pay fifty percent (50%) (or a negotiated portion) of the applicable~~
20 ~~fees or departmental services charges;~~

21 3.— ~~Type C is an event funded by the city and the city will absorb one~~
22 ~~hundred percent (100%) of the applicable fees or departmental services charges~~
23 ~~incurred by the city.~~

24 ~~D.— Unless otherwise authorized by the city manager in writing, at least three (3) days~~
25 ~~prior to a parade, event or activity permitted under this chapter, the applicant shall pay to~~
26 ~~the city a deposit in an amount sufficient to cover the total estimated city departmental~~
27 ~~services charges which the city manager estimates will be incurred in connection with the~~
28 ~~permit. Said deposit shall be paid in cash or other adequate security as determined by~~

1 ~~the city manager. If the deposit is less than the final charges calculated pursuant to~~
2 ~~section 5.60.090, the permittee shall pay the difference to the city within ten (10) working~~
3 ~~days of being invoiced for such charges from the city. If the deposit is more than such~~
4 ~~final charges, the city shall refund the difference to the permittee within the sixty (60)~~
5 ~~days after the event.~~

6 D. E. A permittee who claims inability to pay departmental service charges due to
7 indigency shall have these charges waived in accordance with the indigency guidelines
8 below. Application for indigent status shall be made at the time of permit application and
9 shall be accompanied by such relevant information and documentation as may, in the
10 opinion of the City Manager or designee, be reasonably necessary to verify such status.

11 For purposes of this Section 5.60.080, "indigent natural person" means:

- 12 1. A person who is receiving benefits pursuant to the Supplemental
13 Security Income (SSI) and State Supplemental Payments (SSP)
14 programs (Sections 12200 to 12205, inclusive, of the California Welfare
15 and Institutions Code), the California Work Opportunity and
16 Responsibility to Kids Act (CalWORKs) program (Chapter 2,
17 commencing with Section 11200 of Part 3 of Division 9 of the California
18 Welfare and Institutions Code), the Food Stamp program (7 U.S.C. Sec.
19 2011, et seq. or Section 17000 of the Welfare and Institutions Code;
20 2. A person whose monthly income is one hundred twenty-five
21 percent (125%) or less of the current monthly poverty line annually
22 established by the Secretary of Health and Human Services pursuant to
23 the Omnibus Budget Reconciliation Act of 1981, as amended.

24 E.D. An organization in which a majority of the members meet the criteria for indigent
25 status, as established in subsection (c) of this Section, may also be eligible for waiver of
26 departmental service charges.

27 ~~E. No permittee shall be required to provide for or pay for the cost public safety~~
28 ~~personnel to provide for the protection of an expressive activity event and its attendees~~

1 ~~from hostile members of the public or counter-demonstrations or for general law~~
2 ~~enforcement in the vicinity of the event.~~

3 ~~Any indigent natural person who intends to engage in "expressive activity"~~
4 ~~as defined in this chapter who cannot obtain a permit because of an inability arising from~~
5 ~~such indigence to pay the departmental services charge may request the city manager to~~
6 ~~recommend an alternative parade, event or activity on a scale and at a time that would~~
7 ~~result in less costs assessed in accordance with section 5.60.090. Application for indigent~~
8 ~~status shall be made at the time of permit application and shall be accompanied by such~~
9 ~~relevant information and documentation as may, in the opinion of the city manager, be~~
10 ~~reasonably necessary to verify such status. For purposes of this subsection 5.60.090.E,~~
11 ~~"indigent natural Person" includes, but is not limited to, a person eligible for county relief~~
12 ~~and support as an indigent person under section 17000 et seq., of the California Welfare~~
13 ~~and Institutions Code or as said code section(s) may be amended from time to time.~~

14
15 ~~5.60.100~~ 5.60.90 Refunds.

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

24
25 ~~5.60.110~~ 5.60.100 Interfering with activity prohibited.

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

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~~5.60.120~~ 5.60.110 Penalty for violation.

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

~~5.60.130~~ 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.

~~B. — Alternatively to the provisions of subsection 5.60.040.E, any applicant for a special event permit who is engaging in or intends to engage in "expressive activity" as defined in this chapter and who is aggrieved by the denial or revocation of a permit pursuant to this chapter may, at his/her election, appeal to the city council in accordance with this section. However, any appeal taken pursuant to this section may, by necessity, involve the postponement or delay of the activity for which a permit is sought.~~

~~5.60.140~~ 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 conduct and operation of a special

1 event.

2

3 ~~5.60.150~~ 5.60.140 Unlawful to use city name without authorization.

4

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

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1 REDLINE

2 Chapter 5.61 - Filming Activities

3 5.61.010 Definitions.

4 A. "Motion Picture, Television, Still Photograph", as used in this Chapter,
5 means and includes all activity attendant to staging or shooting commercial motion
6 pictures, television shows or programs, and commercials.

7 B. "Charitable films", as used in this Chapter, means commercials, motion
8 pictures, television, videotapes, or still photograph produced by a nonprofit
9 organization, which qualifies under section 501(c)(3) of the Internal Revenue Code
10 as a charitable organization. No person, directly or indirectly, shall receive a profit
11 from the marketing and production of the film or from showing the films, tapes or
12 photos.

13 C. "News Media", as used in this chapter, means the filming or videotaping for
14 the purpose of spontaneous, unplanned television news broadcast by reporters,
15 photographers or cameramen.

16
17 5.61.020 Permit Required.

18 No person shall use any city street, alley, sidewalk, park, pier, way or other
19 public property owned or controlled by the City for the purpose of taking commercial
20 motion pictures or television pictures or commercial still photography without first
21 applying for and receiving a permit from the City Manager or his/her designee, provided
22 that the provisions of this Chapter shall not apply to or be construed to affect:

23 A. Reporters, photographers or cameramen in the employ of a newspaper,
24 news service, or similar entity engaged in on the spot broadcasting of news events
25 concerning those persons, scenes or occurrences which are in the news and of
26 general public interest; or

27 ///

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- 1 B. The filming or videotaping of Motion Pictures solely for private family use; or
2 C. Charitable films: projects which qualify under section 501(c)(3) of the
3 Internal Revenue Code.

4
5 5.61.030 Permit Application.

6 A. An application for filming activity under this chapter must be completed and
7 filed at least three (3) days prior to the first day of filming proposed.

8 B. Each such application must include:

- 9 1. The name of the owner, the address and telephone number of
10 the place at which the activity is to be conducted;
11 2. The specific location at such address or place;
12 3. The inclusive hours and dates such activity will transpire;
13 4. A general statement of the character or nature of the
14 proposed filming activity;
15 5. The name, address and telephone number of the person or
16 persons in charge of such filming activity;
17 6. The exact number of personnel to be involved;
18 7. Use of any animals or pyrotechnics;
19 8. The exact amount/type of vehicles/equipment to be involved;
20 and
21 9. Such additional information as the City Manager or his/her
22 designee may reasonably require.

23
24 C. The City Manager or his/her designee ~~may~~ shall refer the application for
25 review as provided in subsection 5.60.040~~(H)~~ of this code.

26 D. The City Manager or his/her designee shall grant, deny or revoke the permit
27 in accordance with subsection 5.60.040~~(J)(I)~~ or section 5.60.060 of this code.

28 ///

1 E. The provisions of subsection 5.60.040~~(F)~~~~(E)~~ shall apply to all permits issued
2 under this chapter.

3

4 5.61.040 Permit Application Fees.

5 The provisions of subsection 5.60.050 (A) and (B) of this code shall apply to
6 every application made under this chapter.

7

8 5.61.050 Rules and Regulations.

9 A. Upon twenty-four (24) hours' notice by the applicant, the City Manager or
10 designee shall have the power, upon a showing of good cause, to change the date
11 for which the permit has been issued provided established limitations are complied
12 with in respect to time and location.

13 B. Rules. The City Manager or designee is authorized and directed to
14 promulgate rules and regulations, subject to approval by resolution of the City
15 Council, governing the form, time, and location of any film activity set forth within
16 the city. He/she shall also provide for the issuance of permits. The rules and
17 regulations shall be based upon the following criteria:

- 18 1. The health and safety of all persons;
- 19 2. Avoidance of undue disruption of all persons within the
20 affected area;
- 21 3. The safety of property within the city; and
- 22 4. Traffic congestion at particular locations within the city.

23

24 5.61.060 Reimbursement for Costs.

25 Notwithstanding any other provisions of this Chapter, any Permittee for a
26 filming activity shall reimburse the City for all costs incurred by City, the amount of which
27 shall be determined by the City Manager or his/her designee, or any city personnel or
28 equipment provided to the applicant for the purpose of assisting or providing security or

1 protection to the applicant for activities conducted under the permit. The provisions of
2 subsections 5.60.090080(A) and 5.60.090080(B) shall apply.

3

4 5.61.070 General Permit Conditions.

5 Any applicant granted a permit pursuant to this Chapter shall comply with
6 all of the following conditions:

7 A. An applicant will be required to submit a permit request at least three (3)
8 working days prior to the date on which such person desires to conduct an activity
9 for which a permit is required. If such activity interferes with traffic or involves
10 potential public safety hazards, an application may be required at least ten (10)
11 working days in advance.

12 B. The Permittee shall conduct operations in an orderly fashion with
13 continuous attention to the storage of equipment not in use and the cleanup of
14 trash and debris. The area used shall be cleaned of trash and debris upon
15 completion of shooting at the scene and restored to the original condition before
16 leaving the site.

17 C. In applicant is required to obtain the property owner's permission, consent,
18 and/or lease for use of property not owned or controlled by the city.

19 D. If the applicant must park equipment, trucks, and/or cars in zones that will
20 not permit it, temporary "No parking" signs must be posted by the city. The
21 applicant must also obtain permission to string cable across sidewalks, or from a
22 generator to a service point.

23 E. For filming that would impair traffic flow, an applicant must use county
24 sheriff or city law enforcement personnel and comply with all traffic control
25 requirements deemed necessary by the City.

26 1. An applicant shall furnish and install advance warnings signs
27 and any other traffic control devices in conformance with the manual of
28 traffic controls, State of California, Department Of Transportation. All

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appropriate safety precautions must be taken;

2. Traffic may be restricted to one (1) twelve-foot (12-foot) lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the City, based on location;

3. Traffic shall not be detoured across a double line without prior approval of the appropriate city departmental representative;

4. Unless authorized by the City, the camera cars must be driven in the direction of traffic and must observe all traffic laws;

5. Any emergency road work or construction by city crews and/or private contractors, under permit or contract to the appropriate department, shall have priority over filming activities.

F. When parking in a parking lot, an applicant may be billed according to the current rate schedule established by the City. In order to assure the safety of citizens in the surrounding community, access roads to beaches, which serve as emergency service roads, must never be blocked. No relocation, alteration, or moving of city-owned structures or property will be permitted without prior approval.

5.61.080 ~~Insurance~~ Hold harmless

A. The provisions of section 5.60.080 shall apply to every permit issued under this chapter.

B. Every applicant/Permittee shall provide insurance and bonds as prescribed in regulations issued by the City Manager pursuant to section 2.84.040.

1 5.61.090 Appeals.

2 The proceedings set forth in section 5.60.~~130~~120 shall apply to any
3 applicant or Permittee aggrieved by an adverse decision under this chapter 5.61.

4

5 5.61.095 Interference with special event or film activity is prohibited.

6 It shall be unlawful for any person to interfere with, disrupt or impede a
7 permitted special event or permitted film activity as specified herein. While not limited to,
8 the following acts are prohibited by this section when done for the purpose of or with
9 knowledge that an effect thereof is to interfere with or disrupt the ability of the permittee
10 to carry on the special event or film activity:

11 A. To block, obstruct or impede the passage of participants, vehicles or animals in
12 the special event or filming activity;

13 B. When not participating in the special event or filming activity with the permission of
14 the permit holder, to walk, run, operate a skateboard, ride any wheeled vehicle or
15 rollerskate through, between, with or among the participants, vehicles or animals in the
16 special event or filming activity, except in cases of bona fide emergency;

17 C. To drop, roll, throw, toss, squirt or propel any gaseous, liquid, semisolid or solid
18 substance or object toward or among the participants, vehicles or animals in the special
19 event or filming activity.

20 D. To grab, take hold of, strike, hit, pull or push any participant, vehicle or animal in
21 the special event or filming activity, or to mount any vehicle in the special event or filming
22 activity, except with the permission of the permittee or in cases of bona fide emergency;

23 E. To enter upon the grounds, playing field, stage, floor, or any other area set apart
24 for the participants, performers, officials, attendants or service personnel, unless
25 authorized so to do by usher, by public safety personnel, or by an authorized
26 representative of the sponsor of the special event or filming activity.

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5.61.095.5 Violation - penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$1,000.00 or imprisonment in the county jail for a period not to exceed 6 months, or by both such fine and imprisonment or may be deemed guilty of an infraction punishable by a fine of not more than \$250. Each person may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted.

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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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

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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5.60.040 Permit - Application.

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

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

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

D. Applications for special events for which a permit is required pursuant to this Chapter, may be filed in advance of the time periods set forth above but in no event more than one (1) year prior to the event date. If an applicant for an event desires to ensure the opportunity for an appeal to the City Council in accordance with subsection 5.60.120, the application shall be filed with the City Manager not less than thirty (30) calendar days, nor more than one year before the time when it is proposed to conduct the event. Failure to file the application at least seventy-five (75) days prior to the proposed activity shall be deemed to be a waiver of an appeal to the City Council and in that event the decision of 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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4. The event will not conflict with construction or development in the public right of way or at a public facility;
5. The event will not require the diversion of public safety or other city employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City;
6. The concentration of persons, animals or vehicles will not unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles on the streets;
7. The event will not unreasonably interfere with any other special event for which a permit has already been granted or with the provision of City services in support of other scheduled events or scheduled government functions;
8. The event will not have an unmitigatable adverse impact upon residential or business access and traffic circulation in the same general venue area;
9. If the event is a marathon, it will not occur within one hundred eighty (180) calendar days of another marathon unless such event receives prior approval by the City Council;
10. The event will not adversely affect the City's ability to reasonably perform municipal functions or furnish city services;
11. The proposed use, event or activity will not have a significant adverse environmental impact;
12. In the case of a block party or other similar neighborhood event, the applicants have submitted a petition in favor of the event which has been signed by individuals representing at least sixty-six percent (66%) of the households on the block affected by the permit;
13. The provisions of Sections 5.60.080 and 5.60.090, if applicable, have been or will be satisfied.

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5.60.050 Permit application - Fee.

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

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

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

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

2. A person whose monthly income is one hundred twenty-five percent (125%) or less of the current monthly poverty line annually established by the Secretary of Health and Human Services 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.

14
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. A person who is receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200 to 12205, inclusive, of the California Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2, commencing with Section 11200 of Part 3 of Division 9 of the California Welfare and Institutions Code), the Food Stamp program (7 U.S.C. Sec. 2011, et seq. or Section 17000 of the Welfare and Institutions Code);

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

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

5.60.090 Refunds.

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

1 conduct and operation of a special event.

2
3 5.60.140 Unlawful to use city name without authorization.

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

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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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Section 2. The City Clerk shall certify to the passage of this Ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing Ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor