ORDINANCE NO. 2012-042

Adopted by the Sacramento City Council

October 9, 2012

AN ORDINANCE AMENDING SECTIONS 5.88.010, 15.88.030 AND 5.88.190 OF CHAPTER 5.88, AND REPEALING AND REENACTING CHAPTERS 12.48 AND 12.72 OF THE SACRAMENTO CITY CODE RELATING TO OUTDOOR VENDING, SPECIAL EVENTS, AND COMMERCIAL ACTIVITIES IN CITY PARKS AND PARK BUILDINGS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Section 5.88.010 of the Sacramento City Code is amended follows:

A. SubSection B of Section 5.88.010 is amended to read as follows:

B. Notwithstanding any other provision of this code to the contrary, it is unlawful for any person to sell, expose for sale or offer for sale any goods, wares, merchandise, or food of any kind or description for which a price is asked, and the article delivered, on any portion of a sidewalk, street, or alley located within 350 feet of any school building, school ground, playground, recreation park, or public park within the city, or the Memorial Auditorium, unless the vendor is operating as an ancillary activity in conjunction with a special event for which a permit has been issued under Chapter 12.48. No permit shall be issued under Articles II and III of this chapter for such a location.

B. Except as specifically amended in subSection A above, Section 5.88.010 remains unchanged and in full force and effect.

Section 2. Section 5.88.030 of the Sacramento City Code is amended as follows:

A. SubSection A.2 of Section 5.88.030 is amended to read as follows:

2. The sale of novelties and food during special events held in the central business district, provided such sales are made only in the designated area and the vendor is operating as an ancillary activity in conjunction with a special event for which a permit has been issued under Chapter 12.48;

B. SubSection E of Section 5.88.030 is amended to read as follows:

E. It is unlawful for any person to sell, expose for sale, or offer for sale any goods, wares, merchandise, or food of any kind or description for which a price is asked, and the article delivered, from the public sidewalks, streets, or alleys outside the central business district, except the following:

1. The sale, dissemination and distribution of newspapers and religious and educational periodicals;

2. The operation of food vending vehicles in accordance with Chapter 5.68 of this code;

3. The sale, exposing for sale, and offering for sale any goods, wares, merchandise, or food from any public sidewalk, street, or alley or portion t hereof, that is the subject of an operations agreement between the city and the Sacramento Regional Transit District for the operation of a light rail station, undertaken pursuant to a license issued by the Sacramento Regional Transit District; or

4. The vendor is operating as an ancillary activity in conjunction with a special event for which a permit has been issued under Chapter 12.48.

C. Except as specifically amended in subSections A and B above, Section 5.88.030 remains unchanged and in full force and effect.

Section 3. Section 5.88.190 of the Sacramento City Code is amended to read as follows:

5.88.190 Outdoor sales and displays unlawful.

It is unlawful to sell, attempt to sell, or display for sale any merchandise, food, or drink on private property except from within a fully enclosed building, unless the vendor is operating as an ancillary activity in conjunction with a special event for which a permit has been issued under Chapter 12.48.

Section 4. Chapter 12.48 of the Sacramento City Code is repealed and reenacted to read as follows:

Chapter 12.48 SPECIAL EVENTS

12.48.010 Definitions.

As used in this chapter:

"Alcoholic beverages" means alcohol, spirits, liquor, beer, wine, or any other liquid that contains one-half of one percent or more of alcohol by volume.

"Amplified sound" means speech, music, or other sound projected or transmitted by devices, or combinations of devices that are powered by electricity, battery, or combustible fuel and which are intended to increase the volume, range, distance, or

"City manager means the city manager of the city, the acting city manager, or the city manager's designee.

"Commercial activity" means selling, offering for sale, or solicitation for future delivery or performance of, any merchandise, food, beverages, or services.

"Decibel" or "dB" means a unit which denotes the ratio between two quantities which are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base of ten of this ratio.

"Free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, provided that such activity is the primary purpose of the special event.

"Noise level" means the "A" weighed sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) microPascals. The unit of measurement shall be designated as dBA.

"Park" means and includes all parks, parkways, medians, pedestrian malls, plazas, greenbelts, gardens, lakes, and any other property owned or controlled by the city, including structures thereon and off-street parking areas that are used in connection therewith, which are operated or maintained for passive or active recreational purposes. The term "park" also includes any property owned or controlled by the city as open space, including undeveloped sites for future parks. The term "park" does not include the City Hall Facility.

"Pyrotechnics" or "fireworks" means a device consisting of a combination of explosives and combustibles, which when ignited generates fire, light, smoke, or noise for amusement.

"Special event" means an organized assembly of more than 50 persons who occupy all or any portion of a public street, sidewalk, alley, or park for a period of more than 30 minutes. The term "special event" includes an assembly of more than 50 persons to conduct a parade, march, or procession that will occupy all or any portion of a public street, sidewalk, alley, or park for a period of more than 30 minutes.

"Special event permit" means a permit issued by the city manager to conduct a special event.

"Temporary fencing" means a removable barrier to close off access to all or a portion of a public street, sidewalk, alley, or park.

"Temporary structure" means a booth, canopy, or tent that is larger than 200 square feet in size.

12.48.020 Special event permit – Scope and unlawful participation.

A. No person shall organize, sponsor, conduct, or participate in any special event unless a special event permit has been issued under this Chapter 12.48, except for special events that meet the permit exception provisions as provided in Section 12.48.030, or the permit requirement is waived by the city manager as provided in Section 12.48.040. A special event permit shall be publicly displayed during the special event and shown upon demand of any city official.

B. No person shall: (i) join or participate in any special event conducted under a special event permit either in violation of any of the terms of the permit, or without the consent and over the objection of the permittee; or (ii) interfere in any manner with the special event.

C. Any person violating this Section 12.48.020 is guilty of a misdemeanor.

12.48.030 Special event permit exemptions.

A. A person organizing, sponsoring, conducting, or participating in a special event that meets all of the following criteria is not required to obtain a special event permit, but the public street, sidewalk, alley, or park where the special event is to take place shall not be subject to reservation or closure to exclude occupancy or use by other members of the public:

1. The special event does not require closure of all or any portion of a public street, sidewalk, alley, or park because: (i) the assembly will not impede, obstruct, impair, or interfere with the use of the public street, sidewalk, alley, or park by other members of the public, or block fire lanes and paths for pedestrians and vehicle access; and (ii) the participants comply with normal and usual traffic regulations or controls;

2. If held in a park, the special event complies with all of the park use regulations as provided in Chapter 12.72; and

3. The special event does not include the use of amplified sound, pyrotechnics, temporary fencing, temporary structures, commercial activity, or the sale or consumption of alcoholic beverages.

B. Other Exceptions. The requirement to obtain a permit under this chapter to conduct a special event does not apply to the following activities:

1. A funeral procession organized by a licensed mortuary; and

2. Film-making activities under a permit issued pursuant to Chapter 6.50.

12.48.040 Special event permit waiver.

A. The city manager shall waive the requirement to obtain a special event permit under Section 12.48.020 when the special event: (i) includes only the exercise of free speech rights and without the use of amplified sound; (ii) is organized on short notice in response to a recent event occurring within the 60 days prior to the date of the special event; and (iii) the applicant certifies in writing that preparing the application, waiting the five day period for the permit to be issued, obtaining the required insurance coverage, and paying the application and permit fees as required under this chapter would deprive the applicant or sponsoring organization the opportunity for an assembly in response to the recent event.

B. The city manager may waive the requirement to obtain a special event permit where circumstances make it impractical or unnecessary to meet the permit application requirements as provided in Section 12.48.080 and the insurance requirements as provided in Section 12.48.100.

C. Notwithstanding the waiver of the requirement to obtain a special event permit as provided in this Section, all persons that organize, sponsor, conduct, or participate in a special event without a special event permit must nonetheless undertake all reasonable measures so that the event participants and activities comply with the city code and all applicable state and local laws and regulations.

12.48.050 Special event permit application fee.

An application for a special event permit shall be accompanied by a non-refundable application fee to cover the costs for review of the application and processing the permit in the amount established by resolution of the city council. Applications submitted less than 60 days prior to the date of the special event shall be subject to payment of a late application fee in the amount established by resolution of the city council.

12.48.060 Special event permit fees.

Prior to issuance of a special event permit, the applicant shall pay the following fees in the amounts established by resolution of the city council:

A. The special event permit fee for the exclusive use of all or a portion of a public street, sidewalk, alley, or park by the special event participants;

B. If applicable, surcharge fees for staff costs to confirm issuance of required permits by other agencies, to investigate compliance with safety requirements for use of certain types of equipment, and to monitor the activities during the special event;

C. If applicable, surcharge fees for extraordinary utility costs and for police, fire prevention, and park ranger services as may be required to conduct the special event; and

D. If applicable, a deposit for damages to city property that may be caused by the special event.

12.48.070 Special event permit cancellation fees.

A. There shall be no refund of all or any portion of the special event permit fee if the applicant cancels a special event after the permit is issued unless either:

1. The applicant submits a written notice that the special event is to be cancelled at least 15 days prior to the scheduled date of the special event; or

2. The applicant submits a written notice that the special event is to be cancelled at least three days prior to the scheduled date of the special event, and the applicant reschedules the special event to a later date within a 12 month period. In that case, the special event permit fee will be applied for that subsequent date in lieu of forfeiture. However, any subsequent change in the date of the special event shall require payment of a new special event permit fee.

B. The applicant shall be reimbursed for the special event surcharge fees for costs and services that have not yet been incurred or rendered as of the date the applicant cancels a special event, along with the deposit, if any, within 30 days from the date of receipt of the written notice of cancellation.

12.48.080 Special event permit—Application and notice.

A. Any person desiring to conduct a special event for which a special event permit is required shall file an application with the city manager not less than 60 days prior to the proposed date for the special event.

B. Such application shall be completed on a city form and contain at a minimum the following information:

1. The name of the applicant; the sponsoring organization, if any, with the approval of the sponsoring organization for the applicant to apply for the permit on its behalf; the special event organizer who promotes and manages the special event, if any; and the mailing addresses, e-mail addresses, if any, and telephone numbers of each of the foregoing persons and organization; and the proposed date, time, duration, and location of the special event.

2. If applicable, the proposed location of the assembly and disbanding areas, the route to be traveled, and the assembly starting and ending times.

3. The nature and purpose of the special event and a description of all of the equipment and planned activities, including, without limitation, all of the following:

a. The sale, distribution, donation, or collection of any merchandise, food, beverages, or services;

b. Cooking of food or open fires;

c. The sale or consumption of alcoholic beverages;

d. The use of temporary fencing or temporary structures and whether the fencing or structures will be prefabricated or site built;

e. The use of pyrotechnics;

f. The operation of carnival or animal rides and any demonstrations with animals; and

g. The use of specialized recreational equipment that is to be operated as part of an event activity.

4. The approximate total number of anticipated special event participants and the approximate number of participants in each of the following categories: spectators, staff, volunteers, security personnel, and first aid and medical services personnel.

5. The plan to accommodate vehicle and bicycle parking by participants, including parking for the disabled, reservation or prohibition of on-street parking, and a parking shuttle plan, if applicable. For special events in parks, whether vehicle access into the park is requested, the number of vehicles, the planned path of travel, and whether the vehicle(s) will remain in the park overnight. For special events that will involve temporary street, alley, or sidewalk closures, or temporary on-street parking restrictions, a traffic control and/or parking management plan consistent with the California Manual on Uniform Traffic Control Devices for Streets and Highways may be required.

6. An event site plan to identify locations and number of all equipment and facilities including, without limitation, temporary fencing, temporary structures, staging, bleachers, portable restrooms and hand washing stations, cooking facilities, tables and chairs, waste and recycling containers, electrical and water sources and connections, fuel storage, emergency medical service area(s), pyrotechnics, carnival and animal rides, and specialized recreational equipment. The site plan shall also identify the paths for access by participants, vehicles and emergency vehicles, and the area(s) for the sale or consumption of alcoholic beverages, if applicable.

7. Whether the special event will involve the use of amplified sound, the type, location, and direction of the amplified sound, and the type of amplified sound equipment.

8. For parades, including marches or processions, the maximum parade length; the total number of bands, sound vehicles or musical units, if any, and the type and number of members in each unit; the total number of marching units, if any, and the type and the number of members in each unit; the number of animals, if any, and type; the number of floats, if any, and their size, type and how the floats are powered; and the space between the units and floats and their speed.

9. Any other information that the city manager may reasonably require.

C. Any changes to the application including, without limitation, an increase in the number of participants, and any additional vehicles, equipment, or activities, shall be submitted in writing not later than 10 days before the date of the special event. Such changes may result in additional or modified special event permit conditions, denial of the proposed changes, or revocation of the permit pursuant to Sections 12.48.110 and 12.48.120.

D. For special events that involve a street closure, amplified sound, pyrotechnics, the sale of alcohol, or more than 500 participants; the applicant shall, at least 30 days prior to the date of the event, notify in writing all persons residing along the street to be closed and all persons residing within two city blocks of the proposed special event route or site with the following information: (1) the proposed date, time, and duration of the special event; (2) the use of amplified sound and pyrotechnics, if any; (3) the proposed street closure and alternative route(s), if applicable; and (4) the applicant and city contact information. In lieu of a mailing or other methods of distribution of the required written notice, the applicant may collect signatures of such persons to verify they have received the foregoing information. Special events involving only the exercise of free speech rights organized on short-notice which meet the requirements of Section 12.48.110 A(3) shall be exempt from this notification requirement.

12.48.090 Amplified sound restrictions.

A. For a special event that is to include amplified sound, the following restrictions shall apply:

1. Amplified sound shall not be used before 9 am and after 10 pm Sunday through Thursday and before 9 am and after 11 pm on Friday, Saturday, and the day prior to a federal, state, or city designated holiday, unless more or less restrictive rules are set for certain parks or park areas, or the city manager expressly authorizes such use under a special event permit; and

2. Amplified sound shall not exceed a noise level of 98 dBA at a distance of 150 feet from a noise source or sources, 80 dBA when measured from the nearest residential property, or 24 dBA above ambient noise levels, whichever noise level is lower.

B. The provisions of subSection A of this Section shall not apply to:

1. Broadcasts from any vehicle to which the provisions of Chapter 10.60 are applicable;

2. Use of amplified sound by any peace officer or employee of the city while engaged in the performance of his or her duties; or

3. The amplified sound is infrequent, for a short duration, and is required for the operation of the special event.

12.48.100 Special event permit insurance and indemnity requirements.

The applicant for a special event permit shall furnish evidence of insurance and shall be obligated to indemnify the city as follows:

A. Prior to issuance of a special event permit, the applicant shall submit evidence of general liability insurance coverage, which shall be at no cost to the city, which insurance policy shall comply with the all of the following:

1. Coverage must be at least as broad as ISO CGL Form 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

2. The policy limit per occurrence shall be in an amount as determined by the city's risk manager;

3. The policy shall cover all losses and damages as specified in subSection C of this Section;

4. The policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds;

5. The policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss; and

6. If the special event includes the sale or consumption of alcoholic beverages, a liquor liability endorsement is also required.

B. No person shall conduct a special event under a special event permit without the insurance coverages as required by this Section being in full force and effect. However, the insurance requirement for special events involving only the exercise of free speech rights may be waived by the city manager if the applicant certifies in writing that: (i) the applicant and/or sponsoring organization does not maintain such insurance coverage; (ii) the cost to obtain insurance coverage for the special event is not commercially reasonable or is so cost prohibitive as to prevent the applicant or sponsoring organization from holding the special event; and (iii) the special event will not include pyrotechnics, commercial activity, the sale or consumption of alcoholic beverages, operation of carnival or animal rides or demonstrations with animals, floats or other non-standard vehicles, specialized recreational equipment, or cooking, open fires, or fuel storage.

C. The applicant or the sponsoring organization if different than the applicant, shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liability, costs, and expenses of every type and description, including, but not limited to, attorneys' fees, arising directly or indirectly, in whole or in part, from the acts or omissions of the applicant, sponsoring organization, or its officers, employees, or agents.

12.48.110 Special event permit—Application and approval.

A. The city manager shall act on all complete applications in the following manner:

1. Applications received not less than 60 days before the proposed special event date shall be acted upon not later than 45 days from the date of receipt of the application.

2. Applications received less than 60 days before the proposed special event date shall be acted upon as soon as reasonably practicable, but the special event permit shall be deemed denied if not issued at least three days prior to the proposed special event date.

3. Applications for spontaneous special events involving only the exercise of free speech rights and that are organized in response to news or affairs coming into public knowledge within 60 days of the date of the proposed special event shall be acted upon within five days of receipt of the application.

4. Prior to issuance of the special event permit, the city manager may inform the applicant that the permit is conditionally approved pending submittal of evidence of insurance coverage, permits from other agencies, and such other documents as may be required to be submitted before the permit can be issued.

5. After review of an application and receipt of all required documents, the city manager shall issue the special event permit unless the city manager denies issuance of the permit pursuant to Section 12.48.120. The city manager may impose conditions on approval of the special event permit as the city manager determines to be reasonably necessary to protect the public peace, health, safety, or welfare.

6. Any changes in the application filed after the special event permit has been issued may result in additional or modified special event permit conditions, denial of the proposed changes, or revocation of the permit pursuant to Section 12.48.120.

B. No application for a special event permit shall be submitted earlier than 12 months prior to the proposed special event date. The city manager may reserve use of a city street, sidewalk, alley, or park for certain dates when a special event is usually held in such location on an annual or regular basis, or when the date is a federal or state holiday or of historic significance and a special event is traditionally held on the specific date and location during such holiday or in remembrance of a historic event.

C. If more than one complete application is filed for a special event on the same date and at the same location, the first submitted application shall be acted upon first.

12.48.120 Special event permit—Denial or revocation.

A. Permits for special events involving only the exercise of free speech rights may be denied by the city manager by written notice to the applicant of the city manager's findings that approving the permit would be contrary to the public interest for one or more of the following reasons:

1. A large number of persons would be seriously inconvenienced by the special event for one or both of the following reasons:

a. The time and duration of street closures and parking restrictions will unduly interfere with the operation of businesses, schools, hospitals, churches, or other private, public or quasi-public institutions located adjacent to the proposed special event site, and the applicant is unable or unwilling to modify the special event scope, location, date, time, or duration to minimize such interference; or

b. The time and duration of the use of amplified sound would unduly interfere with the quiet enjoyment of residential property for an extended period of time, and the applicant is unable or unwilling to modify the special event scope, location, time or duration to minimize such interference.

2. Approving the permit would be contrary to the public health, safety, or welfare for one or more of the following reasons:

a. The special event will unduly interfere with ingress to, egress from, or travel on a freeway or state designated highway;

b. The special event requires a temporary street closure that will unduly interfere with the orderly and safe movement of traffic, the provision of public services unable or unwilling to modify the special event scope, location, date, time or duration to minimize such interference;

c. The special event will require a significant diversion of police officers such that police protection for other areas of the city may be adversely impacted, and the applicant is unable or unwilling to modify the special event scope, location, date, time or duration to minimize such impact; or

d. The anticipated number of special event participants would exceed the capacity of the street, sidewalk, alley, or park.

B. For special events involving activities other than only the exercise of free speech rights, the special event permit may be denied by the city manager by written notice to the applicant of the city manager's findings that: (i) approving the permit would be contrary to the public interest or the public health, safety, or welfare for the reasons set forth in subSection A; or (ii) the assembly to occupy all or any portion of a public street, sidewalk, alley, or park would detract from the use of such public facilities for their intended and ordinary purposes and the special event scope, location, date, time, or duration would adversely impact the surrounding neighborhood.

C. Applications for a special event permit may be denied by the city manager, by written notice to the applicant of the city manager's findings that the applicant or the sponsoring organization either was issued a citation within the prior three year period for: (i) failure to obtain a special event permit; (ii) material misrepresentation of the special permit scope or number of participants; or (iii) violation of the permit conditions; or the prior event caused damage to city property and the debt remains outstanding.

D. Special event permits may be revoked by the city manager, and the city manager may order cancellation or termination of a special event, by written notice to the applicant of the city manager's findings that allowing the special event to occur or continue would be contrary to the public interest, or the public health, safety, or welfare for one or more of the following reasons:

1. The applicant, after receiving a special event permit: (i) fails or refuses to inform the city of significant changes to the special event from what was set out in the application; (ii) has submitted false or misleading information as part of the application; (iii) fails to comply with a special event permit condition; or (iv) fails to obtain or comply with any other required city, state, or local permit;

2. A significant number of the participants expected to attend the special event have made it known that they have a specific intent, manifested by specific plans, to engage in or provoke violence;

3. A fully enforced general curfew will be in existence at the time and place for the special event, creating the need to prevent the special event from occurring or continuing at the date, time, and place specified in the special event permit;

4. There is an emergency that creates the need to prevent the special event from occurring or continuing at the date, time, and place specified in the special event permit;

5. The special event organizer failed to make a timely application for a special event permit, and the special event does not qualify for a permit waiver as provided in Section 12.48.040;

6. After issuance of the special event permit, the city manager discovered that: (i) the special event will conflict with a previously scheduled special event or street closure at the same or adjacent location; (ii) the special event activities would violate a city, state, or local law or regulation; or (iii) the permit was otherwise issued in error; or

7. There are grounds for denial of the special event permit as stated in subSections A, B, and C.

E. No special event permit shall be denied or revoked, except in an emergency, without providing a reasonable opportunity for a hearing for the applicant to challenge the basis of the permit denial or revocation as provided in Section 12.48.140.

12.48.130 Alternative dates and places.

Any denial or revocation of a special event permit because the date, time, or place of the proposed special event is not available, or because the number of participants would exceed the capacity of the street, sidewalk, alley, or park, shall contain a counteroffer of alternative acceptable dates, times or places, if reasonably available.

12.48.140 Appeal of action on permit.

An applicant may appeal the city manager's decision to deny issuance of a special event permit, to impose permit conditions that would materially change the special event as planned by the applicant based on the content of its application, or to revoke a special event permit. The appeal shall be to the city council in accordance with Chapter 1.24. A notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, must be filed with the City Clerk within 10 days after the date of the city manager's written decision issued to the applicant or permit holder to deny, condition, or revoke a special event permit.

Section 5. Chapter 12.72 of the Sacramento City Code is repealed and reenacted to read as follows:

Chapter 12.72 PARKS, PARK BUILDINGS, AND RECREATIONAL FACILITIES

Article I. General Provisions

12.72.010 Definitions.

As used in this chapter:

"Alcoholic beverages" means alcohol, spirits, liquor, beer, wine or any other liquid that contains one-half of one percent or more of alcohol by volume.

"Amplified sound" means speech, music, or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or combinations of devices which are powered by electricity, battery or combustible fuel and which are intended to increase the volume, range, distance or intensity of speech, music or other sound.

"Building" means and includes those city owned or controlled buildings or structures, or any portion thereof, that are under the supervision of the department.

"Camping" means:

1. Occupying for living or sleeping purposes a camper trailer, motor home or other vehicle equipped for human habitation; or

2. The erection of any tent or other shelter; or

3. The arrangement of sleeping bags or other bedding for the purpose of, or which will permit, remaining overnight.

"Children's playground area" means and includes park areas which are specifically designed and include equipment and structures for use by children.

"City manager" means the city manager of the city, the acting city manager, or the city manager's designee.

"Commercial activity" means the selling, offering for sale, or solicitation for future delivery or performance of, any merchandise, food, beverages, or services.

"Co-sponsored" means activities that provide specific organized recreation/community services for participants and for which the department shares the responsibility for the activity with other community agencies and/or organizations or individuals.

"Decibel" or "dB" means a unit which denotes the ratio between two quantities which are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base of ten of this ratio.

"Department" means the city department that is assigned the responsibility for supervision and management of buildings and parks used for recreational purposes.

"Designated area" or "designated building" means an area or building specifically designed or equipped for special uses, and set aside for such uses.

"Director" means the head of the department or his or her designee.

"Free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, provided that such activity is the primary purpose of the use of the building or park.

"Noise level" means the "A" weighed sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) microPascals. The unit of measurement shall be designated as dBA.

"Parks" means and includes all parks, parkways, medians, pedestrian malls, plazas, greenbelts, gardens, lakes, and any other property owned or controlled by the city, including structures thereon and off-street parking areas that are used in connection therewith, that are operated or maintained for passive or active recreational purposes. The term "park" also includes any property owned or controlled by the city as open space, including undeveloped sites for future parks. The term "park" does not include the City Hall Facility.

"Person" means and includes persons, associations, partnerships, firms and corporations.

"Pyrotechnics" or "fireworks" means a device consisting of a combination of explosives and combustibles, which when ignited generates fire, light, smoke, or noise for amusement.

"Residential property" means a parcel of real property which is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels, but excluding nonconforming residential uses within zones where residential uses are not permitted.

"Sponsored" means activities organized by the department and over which the department retains total responsibility.

"Temporary fencing" means a removable barrier to close off access to all or a portion of a park.

"Temporary structure" means a booth, canopy, or tent that is larger than 200 square feet in size.

"Trash" and "garbage" mean refuse, litter, paper, vegetable matter and rubbish.

"Vehicle" means and includes gasoline, electric, or other fuel-powered devices by which any person or object may be propelled, moved, or drawn, including go-carts, minibikes, model boats and model airplanes.

12.72.020 Compliance with title required—Violation, enforcement.

A. No person shall enter, be, or remain in any park or building unless he or she complies with all regulations set forth in this chapter applicable to such park or building.

B. Violation of any provision of this chapter shall be a misdemeanor, except for violation of Section 12.72.135. Violation of Section 12.72.135 is not a criminal offense and may be corrected by the bringing of a civil action by the city or the imposition of administrative penalties pursuant to Chapter 1.28.

C. Violation of the requirement to first obtain a building use permit or a park use permit under this chapter, a special event permit under Chapter 12.48, or a lease or concession contract issued under Chapters 3.68 or 3.72, for commercial activity in a building or park may result in the confiscation of the vendor's equipment until the fine for the citation has been paid or dismissed.

D. The provisions of this chapter and rules and regulations promulgated hereunder may be enforced by the employees of the department, park rangers, and city police officers.

Article II. Building Use

12.72.030 Building use regulations.

No person shall:

A. Engage in any commercial activity, use amplified sound, or possess, drink or sell alcoholic beverages in any building except under the terms of a building use permit, or a lease or concession contract issued under Chapters 3.68 or 3.72 which allows for such activity;

B. Use, attempt to use, or interfere with the use of any building or portion thereof which at the time is reserved by permit for the exclusive use of any other person or group; or

C. Smoke in any building or portion thereof.

12.72.040 Building use permits—Purpose, designation of buildings, reservations.

A. Purpose and Exclusive Use. All or portions of buildings may be made available for the exclusive use of persons or groups for an activity subject to the issuance of a building use permit by the director and subject to the payment of fees, where applicable.

B. Designation of Buildings. The director shall designate buildings or portions thereof for which an application may be made for building use permits. The designation shall include the times such buildings shall be open and shall be maintained in the office of the director.

C. Reservations. Requests for reservations may be made not more than 12 months in advance of the event date upon payment of an application fee and issuance of a permit. No application will be permitted for more than one date without the advanced written permission of the director.

12.72.050 Reserved.

Article III. Park Use

12.72.060 Park use regulations.

No person shall:

A. Conduct or carry on an assembly of more than 50 people in a park, which assembly is intended or can reasonably be expected to last more than 30 minutes, unless a park use permit has been first issued therefor, or pursuant to a special event permit or waiver issued under Chapter 12.48. If the assembly is expected to be more than 200 persons, a special event permit is required pursuant to Chapter 12.48 in lieu of a park use permit under this chapter;

B. Conduct or carry on any organized activity that includes carnival rides or animal rides unless a special event permit under Chapter 12.48 has been first issued therefor;

C. Use any amplified sound in a park except as provided in Section 12.72.110;

D. Engage in any commercial activity in a park, unless a park use permit or special event permit under Chapter 12.48 has been first issued therefor, or a lease or concession contract was issued under Chapters 3.68 or 3.72, or the commercial activity is inextricably intertwined with the expression of free speech rights;

E. Sell, possess, or drink alcoholic beverages in a park, unless a special event permit under Chapter 12.48 has been first issued therefor;

F. Erect temporary fencing or temporary structures, use specialized recreational equipment as part of group event, or use any portion of a park for a purpose for which it was not designed or intended, unless a park use permit has been first issued therefor, or pursuant to a special event permit issued under Chapter 12.48;

G. Interfere with the use of any park or portion thereof which at the time is reserved by permit for the use of any other person or group;

H. Ride bicycles, smoke, or drink alcoholic beverages in children's playground areas;

I. Enter or remain in a children's playground area if such person is 18 years of age or older unless actually engaged in the care, custody or supervision of a person younger than 18 years of age who is using the facilities in the area;

J. Bring any wild or domesticated animal or pet into or upon grounds of the zoo, Fairytale Town, any swimming pool, any golf course, commercial amusement area or children's playground area except as provided in Section 9.44.300(B);

K. Bring any domesticated animal or pets into park areas other than those designated in subSection J of this Section unless they are leashed except as provided in Section 9.44.300(B), or pursuant to a special event permit issued under Chapter 12.48;

L. Possess, discharge, or shoot:

1. Any bow and arrow in any park, except in areas designated for such use;

2. Any firearm in any park, except in areas designated for such use and except by a peace officer or by a security guard acting under the authority of a special access permit issued pursuant to Article VI of this chapter;

3. Any slingshots, airguns, and other devices potentially harmful to park visitors, which devices are prohibited in all parks; or

4. Any pyrotechnics in any park unless pursuant to a special event permit issued under Chapter 12.48.

M. Play or practice golf in any area not designated for such use;

N. Swim or wade except in supervised swimming or wading pools;

O. Engage in horseback riding in any park, except for the following activities:

1. Horseback riding on designated bridle paths, or

2. Horseback riding by any peace officer while the peace officer is engaged in the performance of his or her duties;

P. Kill, chase, wound, or capture any wild or domestic bird, or animal in a park. This subSection shall not apply to the chasing or capturing of one's own animal;

Q. Intentionally remove, break, injure, deface, or disturb any plant material, structure, or improvement;

R. Contaminate in any way any water, fountains, pools, lakes, rivers, other water supply, or wash any clothing or cooking utensils in any such waters;

S. Dispose of trash or garbage not accumulated within park areas or dispose of trash or garbage accumulated within park areas other than in receptacles provided for this purpose;

T. Start or maintain fires in parks other than in "on-site" barbecue pits or personal portable barbecues within designated picnic areas. No person shall fail to extinguish live coals or fires before leaving the picnic area;

U. Open, expose, or interfere with any water system or utility, provided that this prohibition shall not apply to the use of any drinking fountain for its intended purpose;

V. Use or operate any vehicle or other motorized objects in the following ways:

1. Operating gasoline or other fuel-powered vehicles (except golf carts where authorized) in any park, except upon streets, parking lots or other areas designated for such use, unless expressly permitted in writing by the director. This subSection shall not apply to city employees on official business; or

2. Operating or parking any vehicle as defined in the California Vehicle Code within a park, except upon areas designated for such use, unless expressly permitted in writing by the director. This subSection shall not apply to city employees on official business;

W. Camp in any park without a park use permit or pursuant to a special event permit issued under Chapter 12.48;

X. If the person is 15 years of age or older, play softball or baseball on any softball or baseball field where signs are posted that prohibit such play by such person;

Y. Do any of the following acts in Garcia Bend Park, Miller Park, or the Sacramento Boat Harbor:

1. Park outside the areas designated for parking or double-park at any time,

2. Park any vehicle or trailer in a boat launch area other than while putting a boat in or taking a boat out of the water, or

3. Park any trailer in any Section posted "NO TRAILER PARKING"; or

Z. Dock a boat at any city-owned or city-managed dock for more than 36 consecutive hours or for the purpose of living on board the boat for more than one night while moored at the dock. One or more persons on board the boat at any time between the hours of one a.m. and six a.m. shall be conclusively presumed to be living on board for the night. A boat that departs a dock after being moored for 24 hours or more, or which departs a dock after having been moored for the purpose of living on board for one night, shall not return to the same dock until at least 24 hours have elapsed. The term "dock" shall include the courtesy docks in Miller Park, Garcia Bend, and Old Sacramento, and any other dock operated primarily for temporary boat mooring purposes. Notwithstanding the foregoing, the city council, by resolution, may establish special rules relating to use of the docks in Old Sacramento, which rules may permit longer periods of mooring, impose fees for overnight mooring privileges, and permit other special uses of those docks.

12.72.065 Spontaneous use of a city park.

Applications for use of a city park involving the exercise of free speech rights shall be processed in the same time period as applications for special events under Section 12.48.110 A(3) and the park use permit may be waived as provided in Section 12.72.170(A).

12.72.070 Commercial activity.

The director may authorize commercial activity within a park in connection with special programs or activities either sponsored or co-sponsored by the city or pursuant to a park use permit issued therefor, if he or she determines that the commercial activity complements and enhances the special program or activity and does not detract from the use of the park for ordinary park purposes. In determining the type and extent of commercial activity to be authorized, the director shall consider the potential impact on the park and surrounding neighborhood. The director shall establish guidelines for approval of park use permit applications involving commercial activity. The decisions made by the director shall be final.

12.72.090 Remaining or loitering in parks during certain hours prohibited.

A. No person shall remain or loiter in any public park before sunrise or after sunset, except at lighted recreational facilities within parks as set forth by resolution pursuant to Section 12.72.230.

B. The prohibitions contained in subSection A of this Section shall not apply:

1. To any person on an emergency errand;

2. To any person attending an assembly, meeting, entertainment event, recreation activity, dance or similar activity in such park provided such activity is either sponsored or co-sponsored by the department or pursuant to a park use permit issued therefor, or pursuant to a special event permit issued under Chapter 12.48;

3. To any person exiting such park immediately after the conclusion of any activity set forth in subSection B(2) of this Section; and

4. To any peace officer or employee of the city while engaged in the performance of his or her duties, or a security guard acting under authority of a special access permit issued pursuant to Article VI of this chapter.

C. The director, with the concurrence of the chief of police, may designate extended park hours for any park when the director determines that such extension of hours is consistent with sound use of park resources, will enhance recreational activities in the city, and will not be detrimental to the public health, safety or welfare. The prohibitions contained in subSection A of this Section shall not apply to any person present in a public park during extended park hours designated pursuant to this subSection.

D. Notwithstanding subSection A of this Section, the chief of police, with the concurrence of the director, may order any park closed before sunset and after sunrise when he or she determines that activities constituting a threat to public health, safety or welfare have occurred or are occurring in the park and that such closing is necessary to protect the public health, safety or welfare. At least one sign designating the hours when the park is closed shall be installed prominently in the park. During any time when a park is ordered closed, it is unlawful for any person to remain or loiter in said park during said period.

12.72.100 Reserved.

12.72.110 Amplified sound.

A. The park areas available for the use of amplified sound may be designated pursuant to Section 12.72.230.

B. The use by any person of amplified sound in any park, public street or parking area within any park, shall be subject to the following regulations:

1. Use of amplified sound must be expressly authorized by a park use permit, or a special event permit issued under Chapter 12.48;

2. Amplified sound shall not be used before 9 am and after 10 pm Sunday through Thursday and before 9 am and after 11 pm on Friday, Saturday and the day prior to a federal, state or city designated holiday, unless more or less restrictive rules are set for certain parks or park areas by resolution pursuant to Section 12.72.230, or the city manager authorizes such use under a special event issued under Chapter 12.48; and

3. Amplified sound shall not exceed a noise level of 98 dBA at a distance of 150 feet from the noise source or sources, 80 dBA when measured from the nearest residential property, or 24 dBA above ambient noise levels, whichever noise level is lower.

C. The provisions of subSection B of this Section shall not apply to:

1. Broadcasts from any vehicle to which the provisions of Chapter 10.60 are applicable;

2. Use of any radio, audio equipment, or television when the amplified sound is not audible 100 feet from the noise source;

3. The use of amplified sound by any peace officer or employee of the city while engaged in the performance of his or her duties; or

4. The amplified sound is infrequent, for a short duration, and required for the operation of the activity authorized pursuant to a park use permit or a special event permit issued under Chapter 12.48.

12.72.120 Helmet, elbow pads and knee pads required at city skateboard facilities.

Any person riding a skateboard at any skateboard park or facility owned, leased, or operated by, or licensed to, the city shall wear a helmet, elbow pads, and knee pads at all times while so riding.

12.72.135 Prohibition of smoking in parks.

A. Smoking is prohibited in parks.

B. No person shall dispose of any material used for smoking in any park, except in a designated waste disposal container.

C. Notwithstanding subSection A of this Section and unless otherwise provided by state or federal law, smoking is permitted in designated areas in community parks or regional parks authorized by the director. Designated smoking areas shall be prominently marked with signs.

D. For purposes of this Section, the following words and phrases shall have the meaning set forth in this subSection.

1. "Parks" has the same meaning as defined in Section 12.72.010, but does not include golf courses, the streets inside a park, or the sidewalks along the perimeter of parks.

2. "Smoking" means lighting, inhaling, exhaling or burning any pipe, cigar, cigarette, weed, or plant, or carrying any lighted pipe, lighted cigar, lighted cigarette, lighted weed, lighted plant, or ignited combustible substance in any manner or in any form.

Article IV. Permit Procedure for Building Use and Park Use Permit Applications

12.72.160 Applications for building use and park use permits.

A. Whenever a building use or park use permit is required by this chapter, an application shall be completed on a city form and filed with the director at least 15 days in advance of the date for which the permit is sought stating at a minimum the following information:

1. The name, mailing address, e-mail address (if any), and telephone number of the applicant;

2. The name, mailing address, e-mail address (if any), and telephone number of the person, group, organization, or corporation sponsoring the activity;

3. Dates and hours of the activity;

4. Estimated attendance;

5. Assurance of responsibility of cleaning entire area, and if applicable payment of a security deposit;

6. Description of the proposed activities, including a description of equipment to be used in connection therewith and the use to be made of such equipment, and any commercial activity;

7. The building or park or portion thereof for which application is made;

8. The name, address and telephone number of each monitor during the activities, if any; and

9. Any other information that the director may reasonably require.

B. Any changes to the application including, without limitation, an increase in the number of participants, the use of additional equipment, or the provision of additional activities, shall be submitted in writing not later than five days before the date of the activity. Any changes in the application filed after the building use or park use permit has been issued may result in additional or modified permit conditions, denial of the proposed changes, or revocation of the permit pursuant to Section 12.72.180.

12.72.170 Application—Waiver of park use permit requirement.

A. The director shall waive the requirement to obtain a park use permit when the activity includes only the exercise of free speech rights without the use of amplified sound, is organized on short notice in response to a recent event occurring within the 60 days prior to the date of the activity, and the applicant certifies in writing that preparing the application and waiting the full period for the permit to be issued would deprive the applicant or sponsoring organization the opportunity for holding an assembly in response to such recent event.

B. The director may waive the requirement to obtain a park use permit where circumstances make it impractical or unnecessary to meet the permit application requirements.

C. Notwithstanding the waiver of the requirement to obtain a park use permit as provided in this Section, all persons who use a park without a park use permit must nonetheless undertake all reasonable measures so that the participants and activities comply with the other provisions of this chapter, the city code, and park use rules and procedures as promulgated by the director or city manager, and all applicable state and local laws and regulations.

12.72.180 Action on application—Grounds for denial or revocation.

A. Complete applications for building use and park use permits submitted 15 days before the proposed activity date shall be acted upon by the director within a reasonable time under the circumstances, but not less than five days before the date for which the permit is sought. Complete applications received less than 15 days before the proposed activity shall be acted upon as soon as reasonably practicable, but the building use or park use permit shall be deemed denied if not issued at least three days prior to the proposed activity date. All permits shall be shown upon demand of any city official.

B. The director may deny or revoke the permit, by written notice to the applicant if the director finds that one or more of the following conditions exist:

1. The building, park or portion thereof applied for is not available because of prior reservation or a city sponsored or co-sponsored activity; a permit has already been issued for that same location, date, and time; or the number of persons expected to attend would exceed the capacity of the building, park or portion thereof;

2. The proposed activity would detract from use of the building or park for its intended and ordinary purposes;

3. Due to the scope, date, time, or duration of the proposed activity, it would seriously inconvenience persons who regularly use the building or park, or adversely impact the surrounding neighborhood, and the applicant is unable or unwilling to modify the activity scope, location, date, time, or duration to minimize such inconvenience or impact;

4. The proposed activity is of a size, scope, or duration that requires the significant diversion of police officers such that police protection of other areas of the city may be adversely impacted;

5. The applicant failed to file a complete or timely application;

6. The proposed activity would violate federal, state, or local laws or regulations;

7. The applicant fails to agree in writing to clean, repair and restore the building or park or portion thereof to its condition immediately prior to the activity for which the permit is sought;

8. The applicant fails to agree in writing to provide monitors at the ratio of one for every 50 persons expected to attend the activity. Such monitors shall be responsible adults and shall be in attendance for the duration of the activity for which the permit is issued;

9. The organizers of the activity, or agents or persons acting in concert with the organizers, have made it known that they have a specific intent, manifested by specific plans, to engage in or provoke violence;

10. In the case of park use permits, the applicant fails to agree in writing to provide chemical toilet facilities in the number specified by the director for the activity in parks that do not have toilet facilities or where the estimated attendance exceeds 50 persons. This requirement shall apply only if the director specifically requires chemical toilet facilities as a condition of permit approval;

11. The applicant, after receiving a building use or park use permit, fails or refuses to inform the director of the significant changes to the activity from what was set out in the application, has submitted false or misleading information as part of the application, fails to comply with a permit condition, or fails to obtain or comply with any other required city, state or local permit; or

12. The applicant or sponsoring organization either was issued a citation within the prior three year period for failure to: (i) obtain a building use or park use permit when a permit for the activity was required; (ii) comply with the conditions of the building use or park use permit; or (iii) obtain a special event permit under Chapter 12.48 for a special event in a park; or the prior activity caused damage to city property and the debt remains outstanding.

C. The director may impose permit conditions which require changes in the scope, time, duration, location, activities and any other matters as set out in the application as the director determines to be reasonably necessary to protect the public peace, health, safety or welfare. The director may require the applicant to furnish evidence of insurance and agree to indemnify the city as a condition of issuance of a building use or park use permit.

D. Any changes in the application filed after the permit has been issued and prior to the date of the activity may require modification of the permit conditions or denial of the proposed changes.

E. No application shall be submitted earlier than 12 months prior to the date of the activity; however, the director may reserve a building or park for a specific date when an activity is held in such building or park on an annual or regular basis.

F. Where the director finds, from the application and his or her initial investigation thereof, that one or more of the conditions exist justifying denial or revocation, the director shall notify the applicant thereof in writing of the director's intent to deny or revoke the permit. The notice shall specify the grounds for the denial or revocation and the right to request a hearing before the director.

G. The applicant may request in writing that a hearing be held before the director on the notice to deny or revoke a permit. Such request shall be filed with the director within two business days of the date of the director's notice specified in subSection F, above, and the hearing shall be held not more than two business days after receipt of the request. The director within two business days of the hearing shall render his or her decision to the applicant. Said decision shall be in writing and shall specify the grounds therefor. If no request is made by the applicant for a hearing before the director as provided herein, the notice of intent to deny or revoke the permit shall operate as a denial and shall be final.

H. Any decision of the director may be appealed by the applicant to the city manager pursuant to Section 12.72.190.

Article V. Appeals—Miscellaneous Provisions

12.72.190 Appeals of decisions on permits.

An applicant may appeal the decision of the director to deny or revoke any permit provided for in this chapter to the city manager. The applicant must file such appeal with the city manager within two business days of the date the director's decision becomes final. The city manager or his or her designee shall hold a hearing within two business days of the filing of such appeal, at which time applicant may present any evidence relevant to the application. The city manager shall within two business days of such hearing issue his or her decision either affirming the denial of the application, or directing the director to issue a permit. The decision of the city manager shall be in writing, shall specify the grounds therefor, and shall be final.

12.72.200 Fees.

Fees for the application, permit, and surcharges for certain activities provided for in this chapter shall be in the amounts established by resolution of the city council. Such fees must be paid at the time the application is filed, and the application shall not be considered complete until such fees are paid. If the director requires a security deposit as a condition of the building use or park use permit, such deposit shall be paid prior to issuance of the permit. Permit fees, surcharge fees for costs and services which have not yet been incurred or rendered, and the security deposit shall be refunded if the application is withdrawn, the permit is denied, or the permit is revoked prior to the date of the activity, but the application fee is non-refundable.

12.72.210 Provisions for other activities and authority to close parks and buildings.

A. The director may allow activities in buildings and parks that are not otherwise covered by this chapter. In so doing, the director shall act to secure the public peace, health, safety, and welfare and to further the maximum use of the parks and buildings for the comfort and convenience of all.

B. The city manager may close any park, building or portion thereof, and remove all persons therefrom when in his or her judgment such closing will best preserve the public peace, prevent damage to public property, quell riots, mobs or violence, or is otherwise in the public interest. The city manager, a peace officer or a park ranger may also cause to be removed any and all persons whose presence in the building, park or portion thereof is disruptive to the normal and safe use and enjoyment of the building or park.

12.72.220 Promulgation of rules and procedures.

The director shall have the authority to promulgate rules and procedures to effectuate the provisions of this chapter. Subject to city council approval of such rules and procedures, any violation shall be an infraction and may be corrected by the bringing of a civil action by the city and the imposition of administrative penalties pursuant to Chapter 1.28.

12.72.230 Schedule for uses and capacity of buildings and parks; special rules.

The director shall promulgate a schedule which shows uses and capacities of each building and park, the extended hours for parks with lighted recreational facilities, hours and areas for use of amplified sound in a building or park, and other special rules. Such schedule and rules shall be adopted by and may be amended by resolution of the city council.

12.72.250 Life preservers.

A. It is unlawful for any parent to permit his or her child under the age of thirteen (13) or for any guardian to permit any child under the age of thirteen (13) in his or her care to access any public waters located within the city unless such child is wearing a life preserver.

B. For purposes of this Section, "life preserver" is any device meeting the definition of "personal flotation device" as set forth in Title 8 of the California Code of Regulations.

C. For purposes of this Section, "public waters" means all public waters located within the city in any river, stream, lake, reservoir, or other body of water, including all bays, inlets, and estuaries.

D. A violation of this Section shall be a misdemeanor.

Article VI – Special Access Permits for Private Patrol Operators

12.72.300 Definitions.

For purposes of this chapter, the terms "private patrol operator" and "security guard" shall have the same meaning as set forth in Section 5.100.010.

12.72.310 Special access permits for private patrol operators - Scope.

No security guard shall enter a park when the park is closed to the public, enter a park with a vehicle in areas not designated for such use, or enter a park while carrying a firearm, except when acting under the authority of a special access permit. Issuance of a special access permit conveys no property right to the permit holder, and the permit is not transferrable or assignable.

12.72.320 Special access permit term and renewal.

A special access permit issued by the director is valid for a term of one year, unless the permit is suspended or revoked prior to the expiration date. A special access permit may be renewed annually. Applications for a renewal of a special access permit shall be filed not later than 30 days prior to the permit expiration date. Late renewal applications are subject to payment of the initial special access permit application fee.

12.72.330 Special access permit application fees.

An application for an initial or renewed special access permit shall be accompanied by a non-refundable application fee in the amount established by resolution of the city council.

12.72.340 Special access permit annual fee.

Prior to issuance of an initial or renewed special access permit, the applicant shall pay an annual fee in the amount established by resolution of the city council. There shall be no refund of all or any portion of the annual fee.

12.72.350 Special access permit application.

Only private patrol operators may apply for and may be issued a special access permit under this Article VI. An application for an initial or renewed special access permit shall be submitted to the director and shall include all of the following:

A. The name, business address, and telephone number of the applicant, together with the names of all persons employed by the applicant as security guards in conducting private patrol services in the city.

B. A copy of the applicant's license to operate a private patrol service issued by the state of California pursuant to Business and Professions Code Section 7582.

C. A copy of the applicant's and its security guards' pocket identification cards issued by the state of California pursuant to Business and Professions Code Section 7582.13.

D. For each of the applicant's security guards who carry a firearm, a copy of their firearms qualification card issued by the state of California pursuant to Business and Professions Code Section 7583.23.

E. Proof of registration of the applicant and the applicant's security guards with the Sacramento police department as required under Section 5.100.020.

F. A copy of the applicant's current business operations tax certificate as required under Chapter 3.08.

G. A copy of the applicant's current contract to provide private patrol service within the vicinity of a city park, a map of the territory to be patrolled by the applicant, and a letter of support for the issuance of the special access permit by the person or entity under contract with the applicant.

H. The name and location of the park(s) to which the applicant requests special access and the following information with regard to each park: a description of the areas to be patrolled, the hours of service, the types of patrol services, whether access with vehicles is requested and a depiction of the proposed patrol routes, and a statement indicating whether the applicant's security guards will carry firearms.

I. Such further information as the director may require.

12.72.360 Special access permit insurance and indemnity requirements.

A. At all times during the term of a special access permit issued pursuant to this Article VI, the permit holder shall continuously maintain in full force and effect general liability insurance and automobile liability insurance. The insurance coverages shall be at no cost to the city and shall comply with all of the following:

1. For the general liability policy, coverage must be at least as broad as ISO CGL Form 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

2. For the automobile liability policy, coverage must be at least as broad as ISO Form CA 00 01 and provided on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury;

3. Each policy limit per occurrence shall be in an amount as determined by the city's risk manager;

4. Each policy shall cover all losses and damages as specified in subSection D of this Section;

5. Each policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds; and

6. Each policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss.

B. No person shall exercise the authority under a special access permit without the insurance coverages as required by this Section being in full force and effect.

C. The certificates of general liability insurance and automobile liability insurance and endorsements that establish compliance with subSection A of this Section shall be maintained by the permit holder for at least three years after the date that the insurance policy expires.

D. The permit holder shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorneys' fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the permit holder or the permit holder's officers, employees, or agents directly or indirectly arising from the exercise of the authority under the special access permit.

12.72.370 Special access permit requirements regarding reporting and changes in security guards.

A. The director will require the holder of special access permit to submit reports as the director determines is necessary regarding the activities of the permit holder's security guards within or near a park.

B. During the term of a special access permit, the permit holder shall notify the director in writing whenever there is any change in the security guards listed in the initial or renewed special access permit application. The permit holder shall submit for the director's approval the required verification of licensing, registration, and firearm qualification as set forth in Sections 12.72.350(C), (D) and (E) for any new security guard before he or she is granted access to a park under the authority of a special access permit.

12.72.380 Director's action on special access permit application.

A. Upon receipt of a complete application as required under Section 12.72.350 for an initial or renewed special access permit and the application fee as required under Section 12.72.330, the director shall obtain a recommendation and report from the chief of police and conduct an investigation of the application. The director shall take action on the application within 30 days from the date of receipt of the application.

B. Unless the director makes findings for denial of the application under Section 12.72.390, the director shall approve the application, in whole or in part, and shall issue an initial or renewed special access permit upon payment of the annual fee as required under Section 12.72.340 and proof of insurance as required under Section 12.72.360. The director may impose conditions on approval of the application as the director determines to be reasonably necessary to approve the application. The conditions may include, without limitation, the following:

1. Restricting the parks or the area within a particular park where special access is authorized;

2. Restricting the days or time of the day where special access in a park is authorized; and

3. Prohibiting or restricting specified patrol and surveillance measures and activities within a park.

12.72.390 Permit denial, suspension, modification, or revocation.

A. If the director finds, from the information contained in an initial or renewed special access permit application, his or her investigation thereof, and/or the report and recommendation of the chief of police, that: (i) approving a special access permit would be contrary to the public interest or to the public health, safety, and welfare; (ii) the applicant is not eligible to operate a private patrol service in the city; (iii) the applicant is not under contract to provide private patrol security services to the person or entity listed in the application; or (iv) the applicant has violated any prior special access permit requirement or condition, or the provisions of this Article VI; the director shall deny the application and notify the applicant in writing of the reasons for the denial.

B. The director may suspend a special access permit at any time if the director determines that there are grounds for denial of the permit as stated in subSection A, above. The director shall give written notice to the permit holder of the suspension, stating the reasons for the permit suspension and the period of time that **special access to the park by the permit holder's security guards is prohibited. The** suspension period shall not extend longer than the time necessary to investigate the reasons for the permit suspension. Upon completion of the investigation, the director may modify the permit conditions, impose new permit conditions, or revoke the permit. The director shall give written notice to the permit holder stating the reasons for the change in the permit conditions or the permit revocation and the effective date of the change or revocation.

C. The director may revoke a special access permit at any time on the same grounds as for denial of a permit as stated in subSection A, above. The director shall give written notice to the permit holder stating the reasons for the permit revocation and the effective date that the permit is revoked.

D. The decision of the director to deny, suspend, modify, or revoke a special access permit shall be final and shall not be subject to appeal, but may be subject to City Council call-up review under Section 12.72.400.

12.72.400 City Council call-up review of director's permit approval, denial or revocation.

A. The director shall make a report of his or her decision to approve, deny or revoke a special access permit to the mayor and city council as soon as reasonably practicable after the director either issues the permit, or issues the notice of permit denial or revocation.

B. The mayor or councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located shall have the right to call up the decision of the director by filing a written request with director not later than 10 days from the date of the decision of the director.

C. The mayor or councilmember requesting call-up review of the decision of the director may withdraw that request, provided that the withdrawal shall be noted on the next regularly scheduled meeting of the city council and shall be considered to have occurred on that date. The mayor or the councilmember(s) in whose district(s) the park(s) that is the subject of the special access permit application or revocation is located who did not make the request shall have 10 days from the date of the council meeting at which the call-up is considered withdrawn to file a request for call-up review.

D. Upon the filing of a request by the mayor or a councilmember to call up the decision of the director for city council review, the city clerk shall notice and set the matter for a public hearing, which shall be held within 30 days after the request for review has been filed. Notice of the city council hearing shall be given by mail not less than 10 days prior to the council meeting to the special access permit applicant or permit holder, the person or entity under contract with the applicant or permit holder for private patrol services, and the owners of real property located within 500 feet of the park(s) that is the subject of the application or permit.

E. The hearing before the city council shall be de novo, meaning that the city council shall hear the matter in the same manner that the director considered the special access permit application or revocation in the first instance. The city council may approve or deny the special access permit application, or may revoke or not revoke the special access permit, and may impose conditions as it determines to be reasonably necessary to approve the application or not revoke the permit. Within 7 days following the conclusion of the hearing, the city council shall render its decision.

F. If the city council does not act within the time limits set forth in this Section, the decision of the director shall be final.

Adopted by the City of Sacramento City Council on October 9, 2012 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: Councilmember R. Fong.

Vice Mayor Angelique Ashby

Attest:

Shirley Concolino, City Clerk

Passed for Publication: September 27, 2012
Published: October 2, 2012
Effective: November 8, 2012