

**ORDINANCE NO. 3516 C.S.**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY**

**TO AMEND CHAPTER 32 OF THE MONTEREY CITY CODE REGARDING SPECIAL EVENTS  
HELD ON CITY PROPERTY AND FEE WAIVERS**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

**SECTION 1:**

WHEREAS, the City recognizes the substantial community benefits that may result from special events. They can provide cultural enrichment, promote economic vitality, and enhance community identity. They may also provide funding opportunities for service organizations. Cooperation between the City, event organizers and sponsors, and the community, is vital to successful events;

WHEREAS, the City's intent is to establish a process for permitting special events to manage competing uses of City streets, parks, open space, facilities or services in a manner that protects the rights of people to engage in expressive activities in the City's public places;

WHEREAS, special event permits are necessary to ensure the health and safety of event patrons, residents, workers, and other visitors; to coordinate multiple uses of public property; to assure the preservation of public property and public places; to prevent dangerous, unlawful or impermissible uses; to protect the safety of persons and property; and to control vehicular and pedestrian traffic in and around the venue;

WHEREAS, the City intends to protect the rights of people to engage in expressive activities in the City's public places and to establish the least restrictive and reasonable time, place, and manner regulation of these activities;

WHEREAS, the City has a significant governmental interest to provide for traffic control to rectify a special event's disruption of normal street use;

WHEREAS, the City maintains a list of fees and costs charged to individuals and organizations for parades, assemblies, and special events that take place on City property, including permit fees and costs for in-kind services provided by the City. The fees respond to the size of the special event and its impacts on normal traffic;

WHEREAS, the City wishes to waive these fees for indigent persons; and

WHEREAS, The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential

to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 3: Monterey City Code section 32-4 is amended to read as follows:

Sec. 32-4. Special Events - permit required.

(a) Purpose. The purpose of this section is to establish a process to manage competing uses of the City of Monterey's public spaces, streets, and sidewalks; to assure the preservation of public property and public places; prevent dangerous, unlawful or impermissible uses; protect the safety of persons and property, and control vehicular and pedestrian traffic in and around the venue, while protecting the rights of people to engage in expressive activities in the City's public places.

(b) Definitions. For the purposes of this Section, certain words and phrases are defined as follows:

1. Communications & Outreach Manager means: the Communications & Outreach Manager for the City of Monterey and his/her designee.

2. 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.

3. Indigent means:

A. 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. Section 2011 et seq.) or Section 17000 of the Welfare and Institutions Code; or

B. A person whose monthly income is 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.

4. Special event means:

A. Any organized formation, parade, march, procession, demonstration, run, motorcade, or promenade consisting of persons, animals, or vehicles, or a combination thereof, which is to assemble or travel in unison on any street, sidewalk, park path, or other public right-of-way owned or controlled by the City that does not comply with

applicable traffic regulations, laws or controls or that will interfere with the free use of any public way, or will impede or delay normal and usual vehicular or pedestrian traffic; or

B. Any activity or event on City owned, controlled, or maintained property involving 150 or more persons.

C. Examples of special events include, but are not limited to, concerts, parades, fairs, festivals, ticketed events, block parties, running events, athletic or sporting events, and community celebrations and observances conducted on public property or public rights of way.

(c) Permit Required. Except as provided by terms of a permit, lease, or contract that has been specifically authorized by the City Council, no person shall conduct or cause to be conducted, manage, or participate, in any special event on any City street, sidewalk, alley, park, way, wharf, public place, public property, or public right-of-way which is owned or controlled by the City without first having obtained a permit in accordance with the provisions of Section 32-4(d). The provisions of that section shall not apply to or affect:

1. Activities conducted by a governmental agency acting within the scope of its authority;
2. Expressive activities involving less than 150 people. However, when practicable, the organizers should give notice to the Communications & Outreach Manager at least four hours prior to the event informing the City of the date and time of the event, and provide an estimate of the number of persons who will be participating; or
3. Camping, Picnicking, and Day Use Permits, which are governed by Monterey City Code section 23-9 et seq.

(d) Issuance of permits - procedure.

1. The issuing authority shall be the Communications & Outreach Manager.
2. Permit Fees. Except as otherwise provided by this Code, or any other applicable law, rule or regulation, or by the terms of a permit, license, lease or contract which has been specifically authorized by the City Council, the permit application fees and other additional fees and charges for the use of City streets or City owned or controlled property pursuant to this Section shall be established by resolution. The permit fee charged is based on the actual costs that a department of the City incurs in connection with activities for which a permit is required, including, but not limited to, costs associated with fire safety, traffic and/or pedestrian control, 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 employee overtime. No permittee shall be required to provide for or pay for the cost of public safety personnel for the protection of a special event and its attendees from hostile members of the public, or counter-demonstrations, or for general law enforcement in the vicinity of the event. However, the police protection provided shall be limited to what the police department, in its sole discretion, can reasonably supply.
3. Permit Application Fee Waiver. An indigent person shall not be required to pay the permit application fee upon proof of indigency. 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, in the opinion of the Communications & Outreach Manager, be

reasonably necessary to verify such status. An organization in which a majority of its members meet the criteria for indigent status is also eligible for a permit application fee waiver.

4. Permit Application. Any person desiring to conduct a special event as defined under Section 32-4(b)(4)(A), or a special event as defined under Section 32-4(b)(4)(B) for expressive activities involving 150 or more persons, shall make a written application to the Communications & Outreach Manager at least two days in advance of the proposed special event. All other special events, including but not limited to recreation events, competition/contests/spectator sports, ticketed events, and sales/auctions/trade shows, shall make a written application to the Communications & Outreach Manager at least 90 business days in advance of the proposed special event. Such application shall include the following information:

- A. The name, address, and telephone number of the person requesting the permit;
- B. The name, address, and telephone number of the person, entity, or organization sponsoring or conducting the proposed special event;
- C. A description of the special event, the estimated number of persons to participate and/or to attend, and the manner in which the public property will be utilized;
- D. The date the special event is to be conducted and the hours the special event will commence and terminate, and the total time, including set-up and tear-down time, that the public property is to be utilized for the described special event;
- E. The street or other public property and the specific area or areas which will be utilized in connection with the proposed special event;
- F. Such other information as the Communications & Outreach Manager may deem necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and the protection of the public health, safety, and welfare;
- G. 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; and
- H. Unless waived under Section 32-4(d)(3), each application shall be accompanied by a nonrefundable permit application fee in an amount established by resolution of the City Council.

5. Approval. The approving authority shall be the Communications & Outreach Manager. The Communications & Outreach Manager may refer the application to City departments or personnel as needed to make recommendations regarding approval or disapproval of the application. In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event. The Communications & Outreach Manager shall issue a permit under this Section if he or she finds that the following criteria have been met:

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

- B. The preparation for or the conduct of the proposed special event will not unreasonably or unfeasibly burden City resources necessary to preserve the public's use of the street in the area contiguous to the street or other public property;
- C. The preparation for or the conduct of the special event will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the permit area or adversely affect the City's ability to perform municipal functions or furnish City services in the vicinity of the permit area;
- D. The proposed special event of the property does not otherwise present a substantial safety, noise, or traffic hazard;
- E. The proposed special event will be of a size appropriate to the proposed venue, location, or site;
- F. The proposed special event will not interfere with another special event for which a permit has been granted or with scheduled government functions;
- G. The proposed special event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its location, which cannot be effectively mitigated;
- H. The proposed special event will not conflict with construction or development in the public right of way or at a public facility;
- I. The proposed special event will not substantially interrupt the safe and orderly movement of aerial or marine navigation;
- J. The proposed special event will not violate any federal, state, or local law;
- K. The proposed special event will comply with applicable licensure requirements, ordinances, or regulations concerning the sale, offering for sale, or distribution of any goods or services; and
- L. The provisions of Section 32-4(d)(8), if applicable, have been or will be satisfied.

6. Conditions. The Communications & Outreach Manager, upon the issuance of the permit, may impose such reasonable requirements concerning the time, place, and/or manner of holding such event as are necessary to coordinate multiple uses of public property, assure the preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property, and to control vehicular and pedestrian traffic in and around the venue. Conditions may include, but are not limited to, the following:

- A. The establishment of assembly or disbanding areas for a parade or similar event;
- B. 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;
- C. Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access;

- D. The number and type of vehicles, animals, or structures to be displayed or used during the special event;
- E. The provision and use of traffic cones or barricades;
- F. The provision or operation of first aid stations or sanitary facilities, including handicap accessible sanitary facilities;
- G. The provision of a waste management plan, and the clean up and restoration of the site of the special event;
- H. Restrictions on the use of sound amplification equipment;
- I. The manner of providing notice of permit conditions to event participants and those businesses or residents who may be directly affected by the conduct of the special event;
- J. The provision or use of emergency services;
- K. The reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity;
- L. The obtaining of any and all business licenses or other necessary permits for the sale of food, beverages, or other goods or services at the special event; and
- M. The manner by which alcohol sales and service, if any, shall be conducted at the special event.

7. **Hold Harmless.** Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of permittee or its officers, employees, and agents.

8. **Insurance.** As a condition precedent to the issuance of the permit, the permittee shall procure and maintain in full force and effect during the term of the permit, insurance the Administrative Services Manager determines to be necessary and adequate under the circumstances. The insurance requirement set forth in this section shall not be construed to apply to special events involving expressive activity, which enjoy protection under the United States and/or California constitutions.

9. **Time for Action on Permit Application.** The Communications & Outreach Manager shall approve, conditionally approve, or deny an application for a permit within three (3) business days of receipt of a completed application. An applicant whose permit application has been denied, or whose permit is revoked, shall be immediately notified of the action of denial or revocation, which notification shall contain a statement setting forth the reasons for said denial or revocation, as well as a reference to the appeal provisions set forth in this Section. Notification pursuant to this Section shall be deemed satisfied when the notice is placed, postage prepaid, for overnight delivery, or when sent by email if an email address is provided on the application.

10. **Denial.** The Communications & Outreach Manager shall deny any application for a permit or revoke any permit if he or she finds any of the following:

- A. The application contains incomplete, false, or misleading information;
- B. One or more of the approval criteria specified in Section 32-4(d)(5) is not met; or
- C. The applicant fails to comply with conditions of approval including, but not limited to: (i) remittance of fees, charges, or deposits; (ii) submittal of an indemnification agreement and/or proof of insurance to the extent required; or (iii) timely receipt of all required approvals.

11. Appeals. The denial of a permit by the Communications & Outreach Manager pursuant to the provisions of this Section may be appealed to the City Manager by the applicant. Such appeal shall be in writing and shall be filed with the City Clerk within 3 business days of the decision of the Communications & Outreach Manager. The City Manager shall act upon the appeal within (1) business day. The City Manager's decision shall be in writing and notice of the decision shall be provided to the applicant via overnight mail or email if an email address is provided on the permit application. The City Manager's decision shall be final except for judicial review.

12. Interfering with Activity Prohibited. It is unlawful for any person to obstruct, impede or interfere with any authorized special event for which a special event permit has been issued.

13. Penalty. Violation of any of the provisions of this Section shall constitute a misdemeanor, and shall be punishable by any criminal, civil, or administrative means as set forth in City Code Section 1.7

SECTION 4: Monterey City Code section 32-5 is deleted.

SECTION 5: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 6: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.


PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 19th day of May, 2015, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Smith, Barrett, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Mayor of said City

  
\_\_\_\_\_  
City Clerk thereof

