

ORDINANCE NO. 2013-24

AN ORDINANCE OF THE CITY OF SANTA CRUZ REPEALING CHAPTER 10.65 OF THE SANTA CRUZ MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 10.65 PERTAINING TO PUBLIC GATHERING AND EXPRESSION EVENTS

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. Chapter 10.65 of the Santa Cruz Municipal Code is hereby repealed.

Section 2. A new Chapter 10.65 is hereby added to the Santa Cruz Municipal Code to read as follows:

**“Chapter 10.65  
PUBLIC GATHERING AND EXPRESSION EVENTS**

Sections:

- 10.65.010 Title.
- 10.65.020 Purpose and intent.
- 10.65.030 Violations.
- 10.65.040 Definitions.
- 10.65.050 Public Gathering and Expression event.
- 10.65.060 Permit required.
- 10.65.070 Exceptions.
- 10.65.080 Application.
- 10.65.090 Late application.
- 10.65.100 Contents of application.
- 10.65.110 Additional information required for Public Gathering and Expression Events occurring along a planned route and/or entailing a march or rally.
- 10.65.120 Action on application.
- 10.65.130 Time for action.
- 10.65.140 Consultation with other departments.
- 10.65.150 Grounds for denial or conditions.
- 10.65.160 Notice of intended action.
- 10.65.170 Denial of late application.
- 10.65.180 Expedited action on application.
- 10.65.190 Grounds for denial of application for a Public Gathering and Expression Event permit.
- 10.65.200 Preliminary approval.
- 10.65.210 Permit conditions.
- 10.65.220 Permit issuance.
- 10.65.230 Appeal procedure.
- 10.65.240 Revocation by permit officer.
- 10.65.250 Reasons for revocation stated.
- 10.65.260 Appeal of permit revocation.
- 10.65.270 Revocation during Public Gathering and Expression event.
- 10.65.280 Emergency revocation.

- 10.65.290 Doubts resolved against revocation.
- 10.65.300 Compatibility with state and federal law and constitutions.
- 10.65.310 Severability.

**10.65.010 TITLE.**

This chapter shall be known as the city of Santa Cruz Public Gathering and Expression Events Ordinance.

**10.65.020 PURPOSE AND INTENT.**

This chapter establishes the standards for the issuance of a permit for Public Gathering and Expression events in the city of Santa Cruz on public property. Its purpose is to promote public safety and welfare, to provide the city with a minimum amount of time to logistically accommodate Public Gathering and Expression events, to assure that the First Amendment rights of those who wish to peacefully participate in Public Gathering and Expression events on City of Santa Cruz public property are preserved and protected, and to assure reasonable access to public property by other community members not involved in the event.

**10.65.030 VIOLATIONS.**

- (a) It shall be an infraction for any person to conduct a Public Gathering and Expression event, as defined at Section 10.65.050, unless a permit required under this chapter has been issued for the event.
- (b) It shall be an infraction for any person to participate in a Public Gathering and Expression event, as defined at Section 10.65.050, with the knowledge that a permit has not been issued for the event.
- (c) It shall be an infraction for a Public Gathering and Expression event permittee to willfully violate the terms and conditions of the event's permit, or for any event participant to knowingly and willfully violate the terms or conditions of the permit.
- (d) It shall be an infraction for any person to hamper, interfere with, obstruct or impede any Public Gathering and Expression event which has been permitted under this chapter.
- (e) When the Public Gathering and Expression event permitted is a march on sidewalks, it shall be an infraction to knowingly drive any vehicle, including bicycles and skateboards, between the persons participating in the march unless it is done at the direction of a police officer, or an authorized security person or monitor.
- (f) It shall be a misdemeanor for a Public Gathering and Expression event participant to fail or refuse to comply with a revocation order made pursuant to Section 10.65.240, 10.65.270, or 10.65.280.

**10.65.040 DEFINITIONS.**

As used in this chapter, the following terms and phrases shall have the following definitions:

- (a) "Applicant" shall mean any person or organization who seeks a Public Gathering and Expression event permit to conduct or sponsor an event governed by this chapter.

(b) "Public Gathering and Expression" means and denotes any political, civic, religious or other public activity intended primarily for the communication of ideas as opposed to the generation of monetary profit by the participants in or sponsors of the event, or the advertisement of products, goods or services. Fundraising and/or donations are permissible secondary objectives for a Public Gathering and Expressions event. Events which are primarily ventures for monetary profit and/or require a street closure are subject to Chapter 10.64.

(c) "Permittee" shall mean any person or organization issued a Public Gathering and Expression event permit.

(d) "Sponsor" shall mean any person who, or organization which, intends to conduct a public gathering and expression event.

(e) "Permit officer" shall refer to the permit officer of the City of Santa Cruz or, alternatively, to the city officer or employee appointed by the city manager to act in place of the permit officer.

(f) "Permit" shall refer to a Public Gathering and Expressions event permit.

(g) "Event" shall refer to a Public Gathering and Expression event.

**10.65.050 PUBLIC GATHERING AND EXPRESSION EVENT.**

As used in this chapter a "Public Gathering and Expression event" is a noncommercial public assembly, the primary purpose of which is the exercise of the participants' constitutional rights of free speech and assembly:

(a) Which is scheduled to take place on public property; a city sidewalk, alley or other right-of-way; city park; city beach; and/or city facility; and/or

(b) Which is likely to obstruct, delay or interfere with the normal flow of vehicular or pedestrian traffic; and/or

(c) Which due to the crowd it generates, restricts access to or use of sidewalks, parks, beaches or other public areas; and/or

(d) Which will result in the placement of structures or objects on streets or sidewalks exceeding twelve square feet in size or six feet in height; and/or

(e) Which may result in donations for non-profit organizations; and/or

(f) Which will have more than 50 participants; and/or

(g) Which may require additional temporary toilet and sanitary facilities if such facilities already available will be inadequate to meet the need created by event participants; and/or

(h) Which will be scheduled for longer than one (1) hour; and/or

(i) Displays and/or gatherings that are scheduled for longer than one day, which are scheduled overnight, or which require a street closure shall be governed by Chapter 10.64; and/or

(j) Rally and/or marches to be conducted on a city street rather than a city sidewalk require a street closure and are subject to the conditions of Chapter 10.64.

**10.65.060 PERMIT REQUIRED.**

Any person or organization intending to conduct a Public Gathering and Expression event in the city of Santa Cruz shall first obtain a permit from the permit officer.

**10.65.070 EXCEPTIONS.**

A permit is not required for the following events:

(a) An event held exclusively within a city park:

(1) Which does not cause an impact as described in Section 10.65.050.

Although a permit under this chapter may not be needed, applications, reservations, fees, and other conditions may be required by the city's Parks and Recreation Department in order to use a city park, beach, facility, and/or other areas within the Parks and Recreation Department's jurisdiction.

(2) The Parks and Recreation Department and/or the permit officer shall determine if the proposed event nonetheless has the potential to cause an impact such as that described in Section 10.65.050. If the Parks and Recreation Department and/or permit officer makes a determination that the event has the potential to cause such an impact, he/she shall so advise the event sponsor. The Parks and Recreation Department and/or the permit officer shall make this determination and provide this advice to the event sponsor expeditiously so as not to frustrate the purpose or timing of the event when time is of the essence. The permit officer may then require the event sponsor to comply with the provisions of this chapter or to submit an application pursuant to Chapter 10.64.

(b) A Public Gathering and Expression event which in the estimation of the permit officer, and for which the sponsor makes the following guarantees to the permit officer that the event:

(1) Involves less than fifty participants;

(2) Participants will assemble and/or march only on sidewalks;

(3) Participants will cross streets only at crosswalks in units of twenty-five or less allowing vehicles to pass between each unit;

(4) Participants will provide adult monitors who will assist in crossings as needed;

(5) Participants will obey all traffic controls and regulations;

(6) Participants will not obstruct sidewalks or otherwise impede the orderly flow of foot traffic on sidewalks;

(7) Participants will not place structures or objects on sidewalks exceeding twelve square feet in size or six feet in height between sunset and sunrise;

(8) Participants will obey all applicable laws, statutes and ordinances;

(9) Participants will not obstruct necessary maintenance and cleaning of streets, sidewalks, or other public facilities;

(10) Adequate toilet and sanitary facilities are available. If in the estimation of the permit officer toilet or sanitary facilities will be inadequate to meet the need for such facilities created by event participants, a sponsor of the event shall meet with the city department responsible for the public facility where the event is to take place and reach an agreement for the provision of additional temporary toilet and sanitary facilities, or otherwise provide for adequate facilities.

(11) Any signage used will not be of such a dimension or used in such a manner that such signage may impede or obstruct pedestrians on sidewalks or vehicles on streets.

(c) Any activity as defined and regulated by Chapter 5.43, typically known as street performers.

**10.65.080 APPLICATION.**

Any person desiring to conduct an event for which a permit is required pursuant to this chapter shall apply for a permit by filing a verified application with the permit officer on a form supplied by the permit officer. All applications shall be submitted at least five business days but not more than six months prior to the commencement date of the event.

**10.65.090 LATE APPLICATION.**

Upon a showing of good cause, the permit officer shall consider a late application if there is sufficient time to process and investigate the application and possible impact on city services for the event. The permit officer shall make the determination of good cause and, in doing so, shall resolve all doubts in favor of allowing application to be made.

**10.65.100 CONTENTS OF APPLICATION.**

The event permit application may require the following information in addition to other information deemed necessary:

- (a) Name, address, home, mobile phone and business telephone numbers of the applicant and the person who will be present and in charge of the event;
  - (b) If the event is to be sponsored by an organization, the name, address and telephone number of the organization and representative of the organization. If requested by the permit officer, written authorization to apply for the permit by an officer of the organization may also be required;
  - (c) Nature or purpose of the event;
  - (d) Date and estimated starting and ending time of the event;
  - (e) Location of the event, including its boundaries, and/or assembly and disbanding locations for walks/marches;
  - (f) Estimated number of participants in the event;
  - (g) Type and estimated number of vehicles or structures which will be used at the event and information as to whether there will be sponsor-provided water or emergency aid stations at the event;
  - (h) Description of any sound amplification equipment which will be used at the event. A sound amplification permit may entail payment of an associated fee, as required by Santa Cruz Municipal Code Chapter 9.40;
  - (i) Whether any food or beverages, including alcoholic beverages, will be sold at the event;
  - (j) Whether monitors will be employed at the event;
  - (k) Anticipated parking needed for participants, including parking for handicapped persons;
  - (l) Anticipated security and/or police requirements necessitated by the event;
- and
- (m) Anticipated toilet and sanitary requirements necessitated by the event.

**10.65.110 ADDITIONAL INFORMATION REQUIRED FOR PUBLIC GATHERING AND EXPRESSION EVENTS OCCURRING ALONG A PLANNED ROUTE, AND/OR ENTAILING A MARCH OR A RALLY.**

When the event is a rally and/or march on city sidewalks, the application shall contain the following information:

- (a) The assembly point for the event and the time when participants will begin to assemble;
- (b) The proposed sidewalk route to be traveled;
- (c) Material and maximum size of any signs or banners to be carried along the route; and
- (d) Anticipated number of adult monitors.

**10.65.120 ACTION ON APPLICATION.**

The city's permit officer shall approve, preliminarily approve, or deny an event permit application on the grounds specified in Section 10.65.190. Final approval may require Santa Cruz city council review and vote depending upon the event's impact on public property, pedestrian traffic, vehicle traffic, and public safety. The permit officer may refer the application to the city council for approval, preliminary approval or denial. Alternatively, the city council may inform the permit officer of its intention to take final action on a particular permit application. Permit applications in all cases are to be submitted to the permit officer. The city council shall not accept applications.

**10.65.130 TIME FOR ACTION.**

Action on the permit application shall be expeditious and in no case later than five business days after the permit officer receives a completed event application form. The maximum five business days action period may be extended by agreement between the applicant and the permit officer. As used in this section the term "action" means approval, preliminary approval, denial of the permit or referral of the application to the city council pursuant to Section 10.65.120.

**10.65.140 CONSULTATION WITH OTHER DEPARTMENTS.**

Prior to approving, preliminarily approving or denying the permit application the city's permit officer shall consult with all city departments which may be impacted by the proposed event.

**10.65.150 GROUNDS FOR DENIAL OR CONDITIONS.**

If the permit officer decides to deny or preliminarily approve the permit application, the permit officer shall inform the applicant in writing of the grounds for denial or the conditions of approval. The permit officer shall further inform the applicant of his or her right to appeal. This information shall be provided at the time of the decision. If the permit officer relied on information about the event other than that contained in the application, the permit officer shall inform the applicant of the additional information considered. In cases where the city council rather than the permit officer acts on the application, the city council shall cause this written information to be provided the applicant.

**10.65.160 NOTICE OF INTENDED ACTION.**

(a) Prior to notifying the permit applicant of the action to be taken on the applicant's permit, the permit officer shall advise the impacted departments or divisions or their designees, as necessary, of the intended action.

(b) In cases where the city council rather than the permit officer acts on the application, the permit officer shall immediately provide notification of that action to these individuals or their designees.

**10.65.170 DENIAL OF LATE APPLICATION.**

If the permit officer determines that good cause to consider a late application does not exist under Section 10.65.090, within two business days of receipt of the late application, the permit officer shall inform the applicant of the reason for the determination regarding lack of good cause and of the applicant's right of appeal.

**10.65.180 EXPEDITED ACTION ON APPLICATION.**

The time limitations for action set forth in this chapter are not to be construed as absolute when time is of the essence. To that end, when it is apparent that the purpose of the demonstration would be frustrated if not conducted at or before a certain date and time, the permit officer, if possible, shall expedite the action required by this chapter so as to assure that the action is taken prior to the date and time of the proposed event.

**10.65.190 GROUNDS FOR DENIAL OF APPLICATION FOR A PUBLIC GATHERING AND EXPRESSION EVENT PERMIT.**

An event permit application may be denied only if it is determined from a consideration of the application and other pertinent information that one or more of the following circumstances exist:

(a) The application was submitted less than five days prior to the event date;

(b) Information contained in the application is found to be materially false or misleading;

(c) The applicant failed to complete the application form after having been notified of the need to do so;

(d) The permit officer has already received an application for another event at the same time and place as that requested by the applicant, or is so close in time or proximity as to cause undue traffic congestion, and/or the police department or any other city department to be unable to meet the needs for services at both with the normal complement of staff;

(e) The time, route, or size of the event is likely to substantially interrupt the safe and orderly movement of traffic in the vicinity of the event site or route, or to disrupt the use of a street at a time when it is usually subject to traffic congestion;

(f) The concentration of persons, vehicles and/or structures at the site of the event, or its assembly and disbanding areas, is reasonably likely to prevent proper police, fire, or ambulance service to areas in the vicinity of the event.

(g) The event is reasonably likely to require diversion of so many city police officers to ensure that participants stay within the boundaries or route of the event, or to protect participants and spectators, that normal protection to the rest of the city will be unreasonably compromised. Nothing herein authorizes denial of a permit because of the

need to protect participants from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of participants with the number of police officers normally assigned to the requested area;

(h) The location of the event is likely to substantially interfere with construction or maintenance work previously scheduled to take place upon or along city streets, or to interfere with the exercise of a previously granted encroachment permit;

(i) The event is likely to occur at a time when a school is in session and at a route or location in the vicinity of a school, and the noise created by the event will substantially disrupt the educational activities of the school;

(j) The event will occur on a route or location in the vicinity of a hospital or extended care facility and the noise created by the event will substantially disrupt the operation of the hospital or extended care facility or disturb the patients within;

(k) Event participants did not comply with conditions imposed in connection with similar prior events; and

(l) The event will conflict with an event permitted under Chapter 10.64.

In determining whether or not the permit application should be granted or denied, the permit officer shall resolve all doubts in favor of granting the application.

**10.65.200 PRELIMINARY APPROVAL.**

When the grounds for denial of an application for a permit can be obviated by altering the date, time, duration, route or location of the event, the permit officer, instead of denying the application, shall preliminarily approve the application pursuant to Section 10.65.210. The city permit officer shall preliminarily approve a permit application rather than deny the application whenever preliminary approval is possible. Depending upon the time, place, and manner of the event, the permit officer may request the applicant apply for a permit under Chapter 10.64.

**10.65.210 PERMIT CONDITIONS.**

The permit officer may condition the issuance of a permit by imposing reasonable requirements concerning the time, place, and manner of the event, any other requirements which are necessary to protect the safety of persons and property, and to provide for adequate traffic control. Such conditions may include, but are not limited to the following:

(a) Alteration of the date, time, duration, route or location of the event;

(b) When the event is a march, conditions pertaining to:

(1) The area of participant assembly and disbanding;

(2) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to the sidewalk or designated public area, or allowing for intermittent safe traffic flow through an event site.

(c) Requirements for provision of first aid, sanitary or emergency facilities;

(d) Requirements for use of event monitors and method for providing notice of permit conditions to event participants;

(e) Restrictions on the number or type of structures for fire safety as required by the Santa Cruz fire department;

- (f) Requirements for use of garbage containers, cleanup and restoration of public property;
- (g) Reasonable restrictions on the use of amplified sound;
- (h) Compliance with any other applicable ordinances or laws;
- (i) Restrictions on the service or sale of alcoholic beverages and any other edible or non-edible goods;
- (j) Requirements for security personnel to be present when deemed necessary; and
- (k) Requirement for the applicant to provide advance written notification to those residents residing along the event route or within the immediate vicinity of the event, including notification of parking restrictions necessitated by the event.

**10.65.220 PERMIT ISSUANCE.**

The event permit shall be issued when:

- (a) The application has been approved;
- (b) The applicant has agreed in writing to comply with the terms and conditions of the permit; and
- (c) All other applicable requirements of this chapter have been satisfied.

**10.65.230 APPEAL PROCEDURE.**

(a) To City Council. Except where the city council has already acted on the application in question, an appeal may be taken pursuant to Chapter 1.16 of this code. The city council's decision shall be final.

(b) To City Manager. If there is insufficient time for a timely appeal to be heard by the city council prior to the date on which the event is scheduled, the applicant may, at the applicant's option, request that the city clerk schedule the appeal before the city manager. The city manager shall hold a hearing no later than one business day prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the event is scheduled to commence. The city manager's decision shall be final.

The time limitations set forth in subsection (b) of this section are not to be construed as absolute when time is of the essence. To that end, when it is apparent that the purpose of the event would be frustrated if not conducted at a certain date and time, the city manager, if possible, shall expedite the appellate process so as to assure a ruling on the appeal prior to the date and time of the proposed event.

**10.65.240 REVOCATION BY PERMIT OFFICER.**

The permit officer may revoke a permit at any time if:

- (a) An emergency arises making it impossible to assign sufficient or appropriate personnel to the event so as to assure public safety; or
- (b) Information is obtained after the permit is issued from which it may be reasonably concluded that the permit should have been denied under Section 10.65.190.

**10.65.250 REASONS FOR REVOCATION STATED.**

If the permit officer revokes a permit the applicant shall be informed in writing of the grounds for revocation.

**10.65.260 APPEAL OF PERMIT REVOCATION.**

The applicant may appeal a revocation in the manner provided for in Section 10.65.230 in all cases except where the revocation is based on an emergency and there is insufficient time available to present or schedule an appeal.

**10.65.270 REVOCATION DURING PUBLIC GATHERING AND EXPRESSION EVENT.**

A police officer or city staff may revoke the event permit during the event if he or she finds either:

- (a) That the event has deviated from or will deviate from its approved route or area; or
- (b) Event participants are violating the law or permit conditions. City staff shall not revoke the permit for either of these reasons unless the city staff first advises the participants of their route deviation, law violation or permit condition violation and provides them with an opportunity to correct same.

**10.65.280 EMERGENCY REVOCATION.**

A police officer or city staff may revoke an event permit during the event if fire or another emergency requires the event to be terminated to assure public safety. When a permit is revoked for this reason, all event participants must immediately comply with the city staff instructions.

**10.65.290 DOUBTS RESOLVED AGAINST REVOCATION.**

In determining whether or not a permit should be revoked, all doubts shall be resolved in favor of allowing the event to proceed.

**10.65.300 COMPATIBILITY WITH STATE AND FEDERAL LAW AND CONSTITUTIONS.**

It is the intention of the city council and the people of the city of Santa Cruz that this chapter shall be interpreted in a manner compatible with the state of California Constitution and the United States Constitution and the statutory and decisional law of the state of California and the United States.

**10.65.310 SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, that holding shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed this chapter and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases might be declared unconstitutional or invalid.”

ORDINANCE NO. 2013-24

Section 3. This ordinance will take effect and be in full force 30 days after final adoption.

PASSED FOR PUBLICATION this 26<sup>th</sup> day of November, 2013, by the following vote:

AYES: Councilmembers Terrazas, Comstock, Lane, Mathews; Vice Mayor Robinson; Mayor Bryant.

NOES: Councilmember Posner.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Hilary Bryant, Mayor

ATTEST: ss/Bren Lehr, City Clerk Administrator

PASSED FOR FINAL ADOPTION this 10<sup>th</sup> day of December, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: \_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_

City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2013-24 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz

\_\_\_\_\_  
City Clerk Administrator