

**Council Meeting: February 26, 2008**

**SUBJECT:** Options for Dealing with Extraordinary Public Safety Responses to Large Gathering Places and Entertainment Venues (Study Issue) and New Permit Requirements for Special Events.

**REPORT IN BRIEF**

The purpose of this report is to seek Council's approval to amend the City of Sunnyvale Municipal Code and to enhance the City's existing Special Event application process to address the challenges of dealing with large entertainment venues, establishments and organizers or promoters that attract large crowds.

Staff recommends that Council enact an ordinance in Title 9 of the Municipal Code, establishing standards for the issuance of a permit for special events.

In addition, staff recommends that Council enact an ordinance in Title 9 of the Municipal Code, allowing the City to charge violators for extraordinary public safety responses caused by event organizers, promoters, participants or other circumstances.

These recommended changes to the Municipal Code and special event process will address conditions of approval for operation, consequences for violations and a cost recovery mechanism for City services rendered in response to special events and entertainment venues.

**BACKGROUND**

The City of Sunnyvale highly values the diversity of its community members, and is very supportive of community events. Special events such as parades, fairs, carnivals, block parties, festivals, public dances, shows and concerts are an important part of a healthy and vibrant community. These special events can provide benefits to the community through the creation of unique venues for entertainment that are not normally provided as part of governmental services.

Despite their merits, however, special events can have a negative effect on neighboring residents and businesses if the event sponsor fails to take appropriate measures for security, traffic control, crowd control, parking, waste

management and other impacts. At times, poor planning by event organizers has resulted in circumstances requiring an extraordinary public safety response for the immediate protection of public health and welfare. Such incidents result in unanticipated costs, divert critical city resources and may leave other areas of the city with inadequate public safety protection during the event.

Staff raised this issue (Attachment A, Study Issue Paper DPS-06) for consideration during Council's December 2006 Study Issues Workshop, primarily because of the increase in the number of incidents requiring extraordinary public safety responses to entertainment venues; and the lack of legal remedies available to the City to reduce the demand for those responses. Council ranked the issue as a priority for study.

On April 3, 2007, Council conducted a study session that allowed staff to present an overview of the problems large entertainment venues create as well as the range of options available to the Department of Public Safety (DPS) in responding and working to maintain order.

On May 8, 2007, staff presented Report to Council 07-139 "Explore options for dealing with extraordinary Public Safety response to large gathering places and entertainment venues" (Study Issue DPS-06 Calendar Year 2007). Council directed staff to propose for Council's consideration amendments to the City's Municipal Code and use permit process to address DPS needs; including advanced notification, conditions of operation, consequences of violation (fines and/or other penalties) and a cost-recovery mechanism. This report responds to that Council direction.

## **EXISTING POLICY**

### **Law Enforcement Sub-element**

**Goal 4.1A:** Provide a safe and secure environment for people and property in the community.

Policy 4.1A.2: Control conduct recognized as threatening to life and property.

### **Community Engagement Sub-element**

*Action Strategy 7.2B.1c:* Promote public awareness and understanding of financial and other constraints on municipal services, and involve community members in identifying solutions which balance public demand for services with limited resources.

### **Fiscal Management Sub-element**

*Action Strategy* 7.1A.1i: Establish user charges and fees at a level closely related to the cost of providing those services.

### **Recreation Sub-element**

Policy C.1.b: Develop strategies to recoup an increased percentage of program costs, where appropriate, without limiting participation, and taking into consideration the carrying capacity of facilities.

### **Civil Service Rules**

70.02.D: No person shall be granted or be permitted any consideration, treatment, advantage or favor beyond that which is general practice to grant or make available to the public at large.

### **Council Policy 7.2.18** Special Events

## **DISCUSSION**

### Community Event Applications and Use Permits

A number of community events have designated personnel who coordinate and manage the event. Careful planning of the event adds to the success of the activity and protects the general public from problems such as excessive parking demand, traffic, noise and trash control. Some events, either first-time activities or recurring activities that do not have continuity with regards to the personnel involved, have seen less careful planning, resulting in negative impacts. The odds of a successful event are increased by requiring advanced notification to the City, thereby allowing the City ample time to ensure the necessary requirements have been met for a safe event.

The current community event process seeks to secure from event organizers an application at least 60 days before the proposed event. Conditions of approval are then provided by the City to the event organizers. Late applications cause problems for event organizers as well as for City staff. Sometimes events are publicized, even though the required safety permits have not been secured. The community event application process does not address public safety needs; including conditions of operation, consequences of violation (fines and/or penalties) or a cost recovery mechanism. Nor is the current community event application codified or enforceable. (Please refer to Attachment B – Community Event Application Form).

Permanent indoor entertainment activities (e.g. nightclubs) are not required to complete community event applications; they are allowed to operate through

the use permit obtained by the business prior to operation. Typically a use permit for a restaurant, bar or nightclub includes conditions such as hours of operation, noise levels limits, Alcohol Beverage Control permits/licensing, parking requirements and location of garbage and/or recycling bins. The permits have not included requirements such as advance notification of large events or security requirements. As a result, DPS is often not even aware that an event authorized by a businesses' use permit is going to occur.

Both the current use permit process for establishments and the community event application process have minimal restrictions or requirements relative to extraordinary public safety responses or unusually large attendance.

#### Special Event Permits

One option to enable staff to work with businesses to ensure successful events can be held, while ensuring public safety and order are maintained, is to change the Municipal Code to establish standards for the issuance of a permit for special events. The proposed ordinance would be codified as "Special Event Permits", and would ensure that the City received adequate notice of special events likely to result in a need for extraordinary public safety or other City services (see Attachment C, Chapter 9.45).

#### Extraordinary Public Safety Responses and Cost Recovery

In addition to a lack of notification, many traditional entertainment venues as well as owner/operators of non-traditional venues, such as warehouses or industrial space, have shown a pattern of not providing adequate supervision or security. As a result, large events or gatherings of people frequently become loud and unruly to the point that they constitute a threat to the peace, health, safety and general welfare of the public. Complaints include excessive noise, excessive traffic, obstruction of public streets and other businesses by crowds that are awaiting entry or leaving the establishments, service of alcohol to minors, public drunkenness, violent assaults, disturbances of the peace, vandalism and littering.

DPS personnel spend a significant amount of time responding to these loud and unruly events in order to restore and maintain order and to protect the public. Such gatherings are a burden on scarce City resources and can result in responses to regular and emergency calls being delayed and a resulting reduction in DPS' ability to protect the rest of the city.

Since large entertainment venues and organizers/promoters of large events are not required to notify DPS before an event, DPS does not have an opportunity to work with a business, group or organizer/promoter in advance to ensure the event is conducted in a manner that does not negatively impact other

businesses; compromise the health, safety and general welfare of the community; or place an undue strain on DPS resources.

One option to enable staff to work with businesses to ensure successful events can be held, while ensuring public peace and order are maintained is to change the Municipal Code. Proposed changes would address operational issues for the businesses that attract or intend to attract large crowds, and also allow the City to require advanced notification of large planned events, adequate security for large events, plans for waiting lines, plans for dealing with attendance greater than occupancy load and enforcement of occupancy limits, plans for crowd management at closing time, and reporting requirements. Proposed changes include penalties for violations to encourage compliance with code requirements. A cost recovery system for public safety response, as well as other City resource response, is essential to encourage compliance.

#### Extraordinary Public Safety Service Liability

The proposed ordinance (see Attachment C, Chapter 9.47), would be codified in the Municipal Code, and would define “extraordinary public safety service liability” as:

- (1) The sixth or subsequent emergency response to the same property within a 12-month period; or
- (2) The dispatch of five or more police officers to a single emergency response.

Whenever DPS first provides extraordinary public safety service to a particular property, the Director of Public Safety would provide the property owner or occupant notice specifying the emergency services provided, and requiring the owner or occupant to provide a written plan for improving the security and safety of the property or the operation of the business. Failure to abide by the DPS approved security and safety plan would make the owner and occupants of the property jointly and severally liable for the actual cost of providing the extraordinary public safety service already incurred, or incurred in the future.

The actual cost of the extraordinary public safety service would be calculated using rates and charges which would be established by the City Council with the City’s current fee schedule and billed to the owner and occupants of the property.

#### **FISCAL IMPACT**

While the administrative action items presented in this report will require dedicated staff time and resources, staff believes they can be accomplished

through existing City resources, as staff in various departments are currently spending time on special events.

In accordance with the special event policy, all fees shall be charged in compliance with the City's current fee schedule. Fees may include, but are not limited to: permit fees, salary costs for public safety officers and other City personnel who facilitate, respond to or monitor the event, costs for use of City equipment, deposit for clean-up costs associated with permitted sale of food and beverages, facility rental fees, and fees for use of City banner sites.

Resources will be needed to provide outreach materials, and are available through the existing budgets of various departments. Additional resources may be required if, as a result of this study and changes made, there is an extensive increase in the number of special events and a resultant increase in the need for additional support.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

### **ALTERNATIVES**

1. Make no change to current policy.
2. Adopt Sunnyvale Municipal Code 9.45 Special Event Permit as depicted in Attachment C.
3. Adopt Sunnyvale Municipal Code CH. 9.47 Extraordinary Public Safety Service Liability as depicted in Attachment C.
4. Adopt Sunnyvale Municipal Code 9.45 Special Event Permit and CH. 9.47 Extraordinary Public Safety Service Liability.
5. Other actions as directed by Council.

### **RECOMMENDATION**

Staff recommends alternative number four, the adoption of Sunnyvale Municipal Code 9.45 Special Event Permits and CH. 9.47 Extraordinary Public Safety Service Liability. Staff believes the best option is to change the Municipal Code to enable staff to work with community members and businesses to ensure successful events can be held, while ensuring public peace and order are maintained. The "Special Event Permit" would codify standards for the issuance of a permit for community events. The

“Extraordinary Public Safety Service Liability” would create a mechanism for cost recovery for events which result in a need for unexpected City services.

Staff believes a cost recovery system for public safety response, as well as other City resources response, is essential to encourage compliance. Council’s approval to amend the City of Sunnyvale’s Municipal Code would enhance the City’s existing community event application process and address needs, including: advanced notification, conditions of operation, consequences of violation and a cost recovery mechanism. Staff’s intention in proposing changes to the Municipal Code is to encourage community members to take responsibility for the events they host and to manage the demand for City services. Even organizers would benefit from having clearly established Municipal Code regarding special events and the consequences for extraordinary public safety service liability. Staff believes that changes will serve to decrease public intoxication, reduce assaults and injuries, reduce neighborhood vandalism, excessive noise and littering within the community; and improve public safety and the quality of life for Sunnyvale residents.

Reviewed by:

Robert Walker, Assistant City Manager

Don Johnson, Director, Public Safety

Prepared by: Mark Stivers, Deputy Chief, Public Safety  
Patricia Lord, Community Resources Manager

Approved by:

Amy Chan  
City Manager

**Attachments**

- A. Study Issue Paper DPS-06
- B. Community Event Application Form
- C. An Ordinance Of The City Council Of The City Of Sunnyvale Adding Chapter 9.45 (Special Event Permits) And Chapter 9.47 (Extraordinary Public Safety Service Liability) To Title 9 (Public Peace, Safety Or Welfare) Of The Sunnyvale Municipal Code Pertaining To Special Events

## **Attachment A**

## Proposed New Council Study Issue

**Number** DPS-06

**Status** Above the line

**Calendar Year** 2007

**New or Previous** New

**Title** Explore options for dealing with extraordinary Public Safety response to large gathering places and entertainment venues.

**Lead Department** Public Safety

**Element or SubElement** Law Enforcement Sub-Element, Goal 4.1A

### 1. What are the key elements of the issue? What precipitated it?

As Sunnyvale continues to provide more large venue entertainment destinations, the strain on Public Safety resources is becoming greater. With the large gathering places now working with outside promoters and others to provide high profile entertainment the crowds are larger and often the result is an overwhelming use of Public Safety personnel to disperse them at the end of the event.

Staff would like the opportunity to explore alternatives such as changes in the Municipal Code to regulate, conditional use permits or other avenues to mitigate the activities offered by these large gathering places and well as penalties for those establishments that do not adhere to the conditions as set.

### 2. How does this relate to the General Plan or existing City Policy?

Public Safety Staff and the Office of the City Attorney have been working to research options available to the City to deal with establishing standards and controls for the use of Public Safety services in response to large scale events promoted at many of the large venue entertainment destinations.

Currently there are no official mechanisms in place to regulate the activities before they take place. If Public Safety becomes aware of the planned event prior to it taking place, staff can make contingency plans to deal with the potential impact. However, more often than not, staff is put in a situation of reaction resulting in draining our resources and calling for outside assistance.

### 3. Origin of issue

**Council Member(s)**

**General Plan**

**City Staff**

Public Safety and City Attorney Staff

**Public**

**Board or Commission** none

### 4. Multiple Year Project? No **Planned Completion Year**

**5. Expected participation involved in the study issue process?**

**Does Council need to approve a work plan?** No

**Does this issue require review by a Board/Commission?** No

**If so, which?**

**Is a Council Study Session anticipated?** Yes

**What is the public participation process?**

Staff will consult with affected businesses as part of the research. If appropriate, a presentation will be made to Council at a public hearing.

**6. Cost of Study**

**Operating Budget Program covering costs**  
481-Police Services

**Project Budget covering costs**

**Budget modification \$ amount needed for study**

**Explain below what the additional funding will be used for**

**7. Potential fiscal impact to implement recommendations in the Study approved by Council**

**Capital expenditure range** None

**Operating expenditure range** None

**New revenues/savings range** None

**Explain impact briefly**

**8. Staff Recommendation**

**Staff Recommendation** For Study

**If 'For Study' or 'Against Study', explain**

Staff is requesting this item be considered for study. This issue continues to put a strain on Public Safety resources. Staff believes there are options available to the City to establish controls on these establishments and events to mitigate the fiscal impact as well as the drain on available resources to meet the needs of the remainder of the community.

**9. Estimated consultant hours for completion of the study issue**

0

**Managers**

Role	Manager	Hours			
Lead	Stivers, Mark	Mgr CY1:	20	Mgr CY2:	0
		Staff CY1:	45	Staff CY2:	0
Interdep	Moon, Rebecca	Mgr CY1:	15	Mgr CY2:	0
		Staff CY1:	0	Staff CY2:	0
Interdep	Ryan, Trudi	Mgr CY1:	4	Mgr CY2:	0

Staff CY1: 16 Staff CY2: 0

**Total Hours CY1: 100**

**Total Hours CY2: 0**

**Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department is currently working on or that are soon to begin, and the impact on existing services/priorities.**

**Reviewed by**

\_\_\_\_\_  
**Department Director**

\_\_\_\_\_  
**Date**

**Approved by**

\_\_\_\_\_  
**City Manager**

\_\_\_\_\_  
**Date**

### Addendum

#### A. Board / Commission Recommendation

Issue Created Too Late for B/C Ranking

Board or Commission	Rank	Rank 1 year ago	Rank 2 years ago
Arts Commission			
Bicycle and Pedestrian Advisory Committee			
Board of Building Code Appeals			
Board of Library Trustees			
Child Care Advisory Board			
Heritage Preservation Commission			
Housing and Human Services Commission			
Parks and Recreation Commission			
Personnel Board			
Planning Commission			

**Board or Commission ranking comments**

#### B. Council

**Council Rank** 1  
**Work Plan Review Date** (blank)  
**Study Session Date** (blank)  
**RTC Date** 5/1/2007  
**Actual Complete Date** (blank)  
**Staff Contact**

**Attachment B**



Event ID#

For City Use Only

# City of Sunnyvale Community Event Application Form

Dear Event Organizer:

Thank you for your interest in holding a community event in Sunnyvale. Special events can be important ways to build community and celebrate the City's diversity, heritage, and uniqueness. Depending on the nature of your event, you may need to obtain permits or approvals to ensure a well-planned, safe event. The City of Sunnyvale has created a simplified process to help you determine what types of permits and approvals you will need. Simply fill out the enclosed community events application and submit it to the City **at least 60 days before your event**.

**Please note: You must complete all sections of this application or it will not be processed. If a section or question does not apply to your event, please write "N/A" or "Not Applicable"**

Once we receive your application, one or more City representatives will contact you to let you know of any permits, approvals, or fees that apply. After you have obtained these, we will send you a final event approval form. We appreciate your time and interest in planning a successful and safe event. A well-planned event translates to a successful activity that benefits both the City and the community. If you need further assistance, call (408) 730-7599 or e-mail [events@ci.sunnyvale.ca.us](mailto:events@ci.sunnyvale.ca.us).

## SECTION 1: CONTACT INFORMATION

Event Title:

Today's Date:

Applicant:

Organization:

Phone:

E-mail:

Mailing Address:

Day-of-Event Contact:

Day-of-Event Phone:

*Except as to the sole negligence or willful misconduct of the City, the Applicant/Permittee shall defend, indemnify and hold the City, and its officers, employees and agents harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including attorneys' fees, which arise out of or is in any way connected with the Community Event authorized herein. **By signing this application, the applicant acknowledges that they may be billed for any unanticipated costs for City services arising from the event as a result of changes to the event or inaccurate application information.***

Signature:

**SECTION 2: EVENT INFORMATION****Sunnyvale Community Event Application**

**Setup** \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ **Event Ends** \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**Event Starts** \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ **Dismantle** \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**ANTICIPATED ATTENDANCE:**

Total:

Per Day:

Will this event be open to the public?

 Yes or No **LOCATION OF EVENT** (please be specific):**CITY FACILITIES**

Do you plan to hold your event at a City building or park?

 Yes or No 

If yes, which facility?

Have you reserved the facility yet?

 Yes or No 

Are you interested in advertising your event at one of the City's banner sites?

 Yes or No *If yes, someone from the Department of Parks and Recreation will contact you with more information.***BLOCK PARTIES AND STREET CLOSURES**

Is this event a block party?

 Yes or No 

Will this event require any City streets to be closed?

 Yes or No 

If yes, which streets (please specify cross-streets)?

Does this event involve a parade?

 Yes or No **FOOD AND ALCOHOL**

Does your event include food concessions and/or preparation areas?

 Yes or No 

Do you intend to cook food in the event area?

 Yes or No 

If yes, please describe how food will be served or prepared:

Specify cooking method:

 Gas Electric Charcoal Other (specify)

Does your event involve the use of alcoholic beverages?

 Yes or No 

If yes, please check all that apply:

 Free Alcohol Alcohol Sales Beer Wine Distilled Spirits

*If you plan to sell or furnish alcoholic beverages at your event, you are required to obtain a permit from the State Department of Alcoholic Beverage Control. The public consumption of alcohol is illegal in some parts of the City. If your event includes the use of alcohol on City property, you will need to provide Liquor Liability Coverage on your certificate of insurance.*

**SECTION 2: EVENT INFORMATION (continued)****Sunnyvale Community Event Application****PORTABLE REST ROOMS**

You are required to provide portable rest room facilities at your event, unless you can substantiate the sufficient availability of both Americans with Disabilities Act and nonaccessible facilities in the immediate area of the event site which will be available to the public during your event. The Santa Clara County Department of Health Services recommends one portable toilet for every 250 people or portion thereof who attend your event.

Do you plan to provide portable rest room facilities at your event?

Yes or No

If yes, total number of portable toilets:

Number of ADA-compliant accessible portable toilets:

**LIGHTING AND SOUND**

Will you be using any amplified sound (ie. public address system)?

Yes or No

Will this event use any lighting?

Yes or No

Will you be using any type of generator?

Yes or No

If yes, please describe:

**MISCELLANEOUS**

Will anything be sold or will donations be taken at the event?

Yes or No

If yes, please describe:

Will this event feature any hands-on attractions such as bounce-houses or petting zoos?

Yes or No

If yes, please describe:

Does this event involve a car wash?

Yes or No

Will you be using a tent or other temporary structure?

Yes or No

If yes, please describe:

**SECTION 3: SITE MAP****Sunnyvale Community Event Application**

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Please provide a site plan/route map for your event. Attach additional sheets as necessary. The map should include:

- An outline of the event site including the names of streets or areas that are part of the venue and the surrounding area. If the event involves a moving route of any kind (such as a parade), indicate the direction of travel, including the starting location and ending destination.
  - Any street or lane closures and parking tow zones.
  - The locations of fencing, barriers, or barricades. Include any removable fencing for emergency access.
  - The location of first-aid facilities.
  - The locations of all stages, platforms, booths, cooking areas, trash containers, etc.
  - Food booth and cooking area configuration including all vendors cooking with flammable gases or barbecue grills.
  - Generator locations and/or source of electricity.
  - Placement of vehicles or trailers used for the event.
  - Anticipated parking locations.
  - Placement of promotional signs or banners.
  - Placement of portable toilets/restroom facilities.
  - Exit locations for outdoor events that are fenced.
  - Locations of all other event activities.
-

**SECTION 4: NARRATIVE**

**Sunnyvale Community Event Application**

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Please provide a description of your event, including activities, timeline, and sequence of events.

Please describe where event participants are expected to park their vehicles.

Please describe your security plan, including crowd control.

**SECTION 4: NARRATIVE (continued)****Sunnyvale Community Event Application**

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In order to comply with the Americans with Disabilities Act, describe how your event will be accessible to people with disabilities.

Please describe your emergency/medical plan, including your communications procedures.

Please describe your plan for cleanup and removal of recyclable goods and garbage during and after your event.

**Attachment C**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING CHAPTER 9.45 (SPECIAL EVENT PERMITS) AND CHAPTER 9.47 (EXTRAORDINARY PUBLIC SAFETY SERVICE LIABILITY) TO TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO SPECIAL EVENTS**

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.45 ADDED. Chapter 9.45 (Special Event Permits) is hereby added to Title 9 (Extraordinary Public Safety Service Liability) of the Sunnyvale Municipal Code to read as follows:

**Chapter 9.45  
SPECIAL EVENT PERMITS**

- 9.45.010. Findings.**
- 9.45.020. Administration; Administrative Guidelines.**
- 9.45.030. Definitions.**
- 9.45.040. Permit Required.**
- 9.45.050. Permit procedure.**
- 9.45.060. Determination – Grounds for approval or denial.**
- 9.45.070. Permit Fees.**
- 9.45.080. Excessive Public Safety Response Costs.**
- 9.45.090. Appeal.**
- 9.45.100. Penalty.**
- 9.45.110. Regulations nonexclusive.**
- 9.45.120. Severability.**

**9.45.010. Findings.**

(a) The City Council finds that special events such as parades, fairs, carnivals, block parties, festivals, public dances, shows, and concerts, are an important part of the life of a healthy and vibrant community. Such events, however, may have a negative effect on surrounding residents and businesses if the person or organization sponsoring the event fails to take appropriate measures for security, traffic control, crowd control, parking, waste management and other impacts. At times, poor planning by event organizers has resulted in circumstances requiring an extraordinary public safety response for the immediate protection of public health and welfare. Such incidents result in unanticipated costs, divert critical city resources, and may leave other areas of the city with inadequate public safety protection during the event.

(b) The purpose and intent of this chapter is to ensure that the city receives adequate notice of special events that are likely to result in a need for extraordinary public safety services or other city services and to establish standards for the issuance of a permit for such events. This chapter is further intended to create a mechanism for cost recovery for events which result in a need for city services.

(c) It is also the intent of the City Council to protect the rights of its citizens to engage in protected free speech expression activities. Consequently, it is not the intent of this ordinance to regulate 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 which are protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution.

**9.45.020. Administration; Administrative Guidelines.**

(a) This chapter shall be administered by the Office of the City Manager, who shall appoint a Special Events Coordinator to oversee the implementation of this chapter. The Special Events Coordinator or designee shall process permit applications; transmit applications to other affected city departments for review and approval; notify applicants of any conditions of approval, including any associated city permits that may be required for the event; work with applicants to implement the conditions of approval; coordinate any city services to be provided at the event; and collect any required fees.

(b) The Special Events Coordinator, with the approval of the City Manager, shall develop administrative guidelines consistent with the provisions of this chapter.

**9.45.030. Definitions.**

(a) “Free Speech Event” means an event at which the expression of free speech rights is the principal purpose of the event. “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.

(b) “Special Event” means any of the following activities:

(1) An event that will require the closure of a public street, or a portion thereof, to vehicular traffic, such as a parade, block party or street fair.

(2) An event that requires a miscellaneous plan permit for a temporary unenclosed use under Chapter 19.82 of this code, such as a festival, carnival, amusement ride, arts and crafts show, car wash, or flea market, unless excluded by the administrative guidelines adopted pursuant to this chapter.

(3) An event that is open to the public and advertised in advance that is reasonably expected to draw a crowd in excess of the permitted occupancy load of the building where the event will occur. Reasonable expectation may be shown by evidence that the person or entity organizing, sponsoring, or promoting the event has organized, sponsored, or promoted past similar events, either in Sunnyvale or elsewhere, that have required a public safety response in order to control crowds or traffic generated by the event. Reasonable expectation may also be shown by evidence that a reasonably prudent event organizer would

anticipate that the event is likely to attract a crowd beyond the capacity of the facility to accommodate. This section does not apply to an event held at an entertainment establishment such as a bar, nightclub, restaurant, or theater as long as the event is authorized by and consistent with existing use permits and licenses governing the establishment, unless the establishment is required to obtain special event permits as part of an approved security plan under Chapter 9.47 of this Code.

(c) Exclusions. The following activities shall not be considered special events that require a special event permit:

- (1) An event sponsored by the city of Sunnyvale.
- (2) An event that is conducted pursuant to a contract with the city of Sunnyvale.
- (3) An event held at a public park where the Director of Parks and Recreation has issued a permit for exclusive use under Chapter 9.62 this Code.
- (4) An event held at a city facility pursuant to a facility rental agreement.
- (5) An event excluded by the administrative guidelines adopted pursuant to this chapter; however, such event may still be subject to other city permit requirements.
- (6) Funeral processions by a licensed mortuary.

**9.45.040. Permit Required.**

(a) It shall be unlawful for:

- (1) Any person, group, organization or entity to sponsor or conduct a special event, as defined in this chapter, unless such special event permit as may be required under this chapter has been issued for the special event;
- (2) Any person, group, organization or entity to participate in any special event as defined in this chapter with the knowledge that the sponsor of the special event has not been issued the required permit;
- (3) The permittee or event sponsor to willfully violate the terms and conditions of the permit, or for any event participant, with the knowledge thereof, to willfully violate the terms and conditions of the permit.

(b) The procedures or requirements of this chapter shall not affect or supersede the provisions of law or the requirements for the issuance of fireworks, structural, electrical or other permits by city departments prescribed elsewhere in this code, when such permits are otherwise required because of a particular condition or requirement of the special event.

**9.45.050. Permit procedure.**

(a) Filing. Any person intending to conduct or sponsor a special event (as defined herein) shall first obtain a special event permit by filing an application on a form provided by the Special Events Coordinator.

(b) Contents of Application.

In addition to any other information that may be required in the application pursuant to administrative guidelines adopted by Special Events Coordinator, the application shall contain the following information:

(1) Name, address and telephone number of the person, entity or organization sponsoring or conducting the proposed event.

(2) Date, time, and location of the proposed event including time for set-up and tear-down.

(3) A description of all tents, pavilions, temporary buildings, machinery, electrical, water supply, liquid and solid waste facilities, plans, amusement equipment and all other temporary structures, illumination, and sound/amplification equipment to be used at the event.

(4) Estimated number of people expected to attend the event.

(5) Plans for traffic control, parking, street closure, storm water control (to prevent litter and trash from entering the storm drains), trash removal, signs, toilets, and security of the event.

(6) Signed statement of consent from any third party whose property will be used for parking or other purposes related to the event.

(7) A certificate of insurance, stating the insurer's name, policy terms, and principal amounts of a policy of insurance against general liability, bodily injury, and property damage arising from the event.

(8) Any additional or supplemental information which the Special Events Coordinator determines is reasonably necessary to determine whether to approve or conditionally approve a special event permit application pursuant to the provisions of this chapter.

(c) Timing.

(1) For all events other than free speech events, the application shall be filed in accordance with time limits established by the Special Events Coordinator.

(2) Free speech events. If the expression of free speech rights is the principal purpose of the event, the applicant should file the application as soon as possible but no less than 48 hours prior to the event. If an application for a free speech event is filed less than five working days prior to the event, the applicant waives any right to appeal the decision of the Special Events Coordinator. If the city denies a permit for a free speech event and the applicant wishes to seek judicial review, he or she is entitled to expedited judicial review under Code of Civil Procedure section 1094.8.

(d) Decision. The Special Events Coordinator shall approve the permit application, subject to conditions, or shall deny the permit for any of the grounds set forth in Section 9.45.060. The Special Events Coordinator shall notify the applicant in writing of the decision, including a statement of the reasons for any conditions or the grounds for a denial. If a change in the time or location of the proposed event would allow approval of the application, the Special Events Coordinator shall propose an alternative to the applicant.

(e) Conditions. Conditions attached to the permit shall be those required to reasonably assure the protection of the public health, the safety of persons, the property of local residents and persons attending the event. Conditions may include, but are not limited to, liability insurance naming the City of Sunnyvale as an additional insured, emergency medical services, private security at applicant's expense, and reimbursement to the City of Sunnyvale for city public safety officers and/or other city services. The number and type of security required shall be determined by the Director of Public Safety or designee.

(f) Indemnification. The permittee shall be responsible for all liability imposed by law for personal injury or property damage caused by the event. If any claim of such liability is made against the city, its officers or employees, the permittee shall defend, indemnify and hold them, and each of them, harmless from such claim insofar as permitted by law.

(g) Acceptance of conditions. The applicant shall sign a statement accepting the conditions of the permit on a form provided by the Special Events Coordinator and shall return such acceptance to the Special Events Coordinator. The failure to submit a timely acceptance of the conditions will be deemed an automatic withdrawal of the application.

(h) Issuance of Permit. The permit shall be deemed issued when the Special Events Coordinator receives the applicant's written acceptance of the conditions, the applicant has paid all required fees, and the applicant has obtained any associated permits required as a condition of the Special Event Permit.

(i) Appeal. The applicant may appeal a decision of the Special Events Coordinator as provided in Section 9.45.090 of this Chapter.

**9.45.060. Determination – Grounds for approval or denial.**

(a) Approval and issuance. The Special Events Coordinator shall approve the application if it is complete and there are no grounds for denial under subsection (b) of this section. Such an application is approved subject to all the applicable conditions which the Special Events Coordinator determines to be necessary to protect the public health, safety, and welfare, and to control pedestrian and vehicular traffic in and around the site of the event.

(b) Grounds for denial. The Special Events Coordinator shall deny an application if any one of the following factors is not adequately addressed, and reasonable conditions cannot satisfy the public health, safety or welfare concerns:

(1) The applicant has failed to complete the application or failed to provide supplemental application information requested by the Special Events Coordinator.

(2) The information contained in the application (including supplemental application information) is found to be false in any material respect.

(3) The application does not satisfy the requirements of this chapter or the administrative guidelines adopted pursuant to this chapter.

(4) An application for another event to be held on the same date as that requested has been previously filed or approved, and the other event is so close in time and location to the event proposed as to cause undue traffic congestion or to place the City in a position of being unable to meet the needs for public safety and other City services for both events.

(5) The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the site or route of the event, or disrupt the use of a street at its peak traffic time.

(6) The concentration of persons, animals or vehicles at the site of the event, or at the site of an assembly or disbanding area around the event, will prevent police, fire or ambulance services reaching areas contiguous to the event.

(7) The size of the event will require the diversion of so many City public safety officers that public safety protection to the rest of the City will be seriously jeopardized.

(8) Given the size and nature of the event, the reasonably available number of City public safety officers and other personnel is not sufficient to ensure the safety of participants or the attending public.

(9) The location of the event will substantially interfere with construction or maintenance work previously scheduled to take place on or along the public right-of-way to be occupied by the event.

(10) The event will occur at a time when a school is in session and along a route or at a location adjacent to the school or a class thereof, and the noise created by the activities of the event will substantially disrupt the educational activity of the school or class.

(11) The application was submitted so close in time to the scheduled event that there is insufficient time to investigate and process the application.

(12) The applicant refuses to indicate in writing that he or she will comply with all terms and conditions of the permit.

(13) The applicant has previously violated permit conditions related to a special event in the City of Sunnyvale or elsewhere and it is reasonably believed that similar violations or unlawful conduct will again occur.

(14) The proposed activity is prohibited by law.

(15) The applicant fails to comply with any conditions of approval including, but not limited to, payment of fees; submittal of an indemnification agreement and/or proof of insurance to the extent required; or timely receipt of all required approvals.

**9.45.070. Permit Fees.** Permit application fees and other additional fees and charges shall be established by city council resolution. Fees and charges may include, but are not limited to, cost of city personnel and equipment involved in permit processing, event traffic control, police and fire safety or other facility or event personnel, based on an approved cost recovery schedule set by the City Council in the fee resolution, or the actual cost of such personnel if not referenced in the resolution.

**9.45.080. Excessive Public Safety Response Costs.**

(a) In addition to all other civil and criminal remedies provided by law, the City shall be entitled to recover the cost of any excessive public safety response associated with a special event. For purposes of this section, “excessive public safety response” means the dispatch of five or more public safety officers due to a report of a disturbance at the location of the event or reasonably connected with or arising from the event. Excessive public safety response costs also include the cost of any public safety response which is caused by the permittee’s failure to abide by permit conditions. Excessive public safety response costs do not include protection of the attendees of a free speech event from hostile members of the public or counter-demonstrations.

(b) The following persons and entities shall be jointly and severally liable for excessive public safety response costs associated with a special event:

- (1) The holder of a special event permit issued pursuant to this chapter;
- (2) Any person, organization or entity which promoted or sponsored the event;
- (3) The owner of the property where the event was held.

(c) Excessive public safety response costs may be collected in any manner prescribed by law. In addition, any person or entity who has incurred excessive public safety response costs as a result of a special event may be denied a subsequent special event permit until such costs are paid.

**9.45.090. Appeal.**

(a) The applicant may appeal the denial of a permit or the imposition of a permit condition to the City Manager by filing a written request stating the reasons for the appeal. The City Manager or his or her designee shall hold a hearing no later than two business days after the filing of the appeal, and will render a decision no later than one business day after hearing the appeal. The City Manager or designee may:

- (1) Approve the special event permit as requested or as changed, modified or conditioned.
- (2) Deny the special event permit if the City Manager or designee finds that grounds for denial exist under Section 9.45.060 of this chapter and that there are no reasonable conditions that could be imposed that would protect the public health, safety, and welfare.

(b) For special events which also require a miscellaneous plan permit for a temporary unenclosed use, this section is intended to supersede the appeal process in chapter 19.82 of this code.

**9.45.100. Penalty.** Every person who violates any provision of this chapter shall be guilty of a misdemeanor, provided that any violation may be charged as an infraction at the discretion of the prosecutor. Each day or portion thereof that such violation continues or reoccurs shall be a new and separate violation.

**9.45.110. Regulations nonexclusive.** The provisions of this chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the city council.

**9.45.120. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 2. CHAPTER 9.47 ADDED. Chapter 9.47 is hereby added to Title 9 (Extraordinary Public Safety Service Liability) of the Sunnyvale Municipal Code to read as follows:

**Chapter 9.47**  
**EXTRAORDINARY PUBLIC SAFETY SERVICE LIABILITY**

- 9.47.010. Authority and purpose.**
- 9.47.020. Definitions.**
- 9.47.030. Security and safety plan.**
- 9.47.040. Extraordinary police service fee liability.**
- 9.47.050. Payment of fees and penalties.**
- 9.47.060. Appeal.**

**9.47.010. Authority and purpose.**

This chapter is adopted under the municipal affairs provisions of the city charter for the purpose of establishing standards and controls for the use of emergency public safety service by identifying businesses and property owners and occupants who disproportionately utilize scarce emergency public safety resources at the public expense, often leaving other areas of the city without adequate public safety protection.

**9.47.020. Definitions.**

The following definitions apply to this chapter:

(a) “Emergency response” means the dispatch of one or more uniformed police officers to a private property pursuant to a request for police assistance for a disturbance at the property. A response to a false alarm under Chapter 9.90 or a domestic violence incident is not an emergency response under this chapter.

(b) “Extraordinary public safety service” means any of the following:

(1) The sixth or subsequent emergency response to the same property within a 12-month period; or

(2) The dispatch of five or more police officers to a single emergency response.

(c) “Occupant” means any individual person or business entity that occupies or controls the property at the time of the emergency response.

(d) “Owner” means any individual person or business entity that has fee title to the property at the time of the emergency response.

**9.47.030. Security and safety plan.**

(a) Whenever the public safety department first provides extraordinary public safety service to a particular property, the Director of Public Safety may provide the property owner or occupant notice specifying the emergency services provided and requiring the owner or occupant to provide the Director of Public Safety a written plan for improving the security and safety of the property, or the operation of the business. The plan shall also include a method of and commitment to implement the plan. The plan shall be submitted to the Director of Public Safety no later than 14 calendar days after receipt of the notice.

(b) The Director of Public Safety shall review the proposed plan and determine if it adequately addresses the public safety and security issues which have led to the emergency responses. If the Director of Public Safety determines that the plan adequately addresses the public safety and security issues, the Director of Public Safety shall approve the plan, which shall be immediately implemented.

(c) If the Chief of Police determines that the proposed plan does not adequately address the security and safety issues, or if no plan is received, the Chief of Police shall develop a plan to address the security and safety issues. The plan may include any reasonable changes in the design or operation of the property or business, including the requirement for provision of private security at no cost to the City of San Buenaventura. The Chief of Police shall notify the owner or occupant of the plan, and shall specify a reasonable deadline for compliance.

(d) The Director of Public Safety may delegate and assign the responsibilities and duties under this section to other employees of the Department of Public Safety.

**9.47.040. Extraordinary police service fee liability.**

(a) The failure of an owner or occupant to abide by the plan approved by the Director of Public Safety under Section 9.47.030, shall render the owner and occupants of the property jointly and severally liable for the actual cost of

providing the extraordinary public safety service already incurred, or incurred in the future.

(b) The actual cost of the extraordinary public safety service shall be calculated using rates and charges established by the City Council at the time the extraordinary police service is rendered and shall be billed to the owner and occupants of the property.

(c) An owner or occupant shall not be liable under this section if that person was not an owner or occupant of the property during the time the extraordinary police service was rendered.

(d) An owner or occupant who is an individual person and is the victim of a crime shall not be liable for extraordinary police service related to that crime.

(e) Any violation of this chapter is civil, not criminal, and is in addition to any other available remedy provided by law.

**9.47.050. Payment of fees and penalties.**

(a) All fees and charges levied under section 9.47.040 are due and payable within one calendar month after presentation. For outstanding delinquent payments, a penalty equaling 25 percent of the levied amount will be assessed on the 30th day following the due date. Thereafter, the delinquent amount will incur an interest penalty of 1 percent per month.

(b) The Director of Public Safety has the authority for good cause shown to waive part or all of the penalties otherwise due under this section.

**9.47.060. Appeal.**

All decisions of the Director of Public Safety under Section 9.47.030 may be appealed. Such appeals shall be determined by the City Manager, or a designee, in writing. No personal appearance before the City Manager is required. In determining the appeal, the City Manager shall give deference to the decisions of the Director of Public Safety supported by substantial evidence. The City Manager shall decide the appeal in writing within ten days after the matter is submitted by the appellant. No appellant shall be required to implement a security and safety plan while an appeal is pending.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2008, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney