

E.6 Public Hearing to Consider: (1) Introduction of an Ordinance Adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code to Require a Permit for Special Events Held in the City of Newark; and (2) Adoption of a Resolution to Amend the Master Fee Schedule to Include a Special Event Permit Processing Fee – from City Manager Becker and City Attorney Benoun.

(INTRODUCTION OF ORDINANCE)(RESOLUTION)

Summary – Several large special events have recently been held that have generated significant police responses, as well as traffic and noise complaints from surrounding residents. In light of these events and the complaints associated with them, staff recommends that the City Council introduce an ordinance that would require hosts of these special events to obtain a special event permit from the City. This permitting process would allow the City to require that the hosts comply with certain conditions that would assure the safety of the members of the public attending the event and minimize adverse effects on the surrounding community. Staff also recommends that the Council adopt a resolution establishing a fee to process the permit applications.

Background/Discussion – Staff recognizes that special events are an important part of the life of a healthy and vibrant community. However, such events may have a negative effect on surrounding residents and businesses if the host of the event fails to take appropriate measures for security, traffic control, crowd control, parking and other health and safety impacts.

A recent example includes the Holi Festival that was held at Newark Junior High School earlier this year. The host of that event contacted City staff only three days before the event. The host represented that while there would be over 1,000 attendees there would not be any traffic or parking concerns because attendees would be coming and going from the event throughout the day.

However, the Newark Police Dispatch Center received 15 telephone calls from citizens living within the vicinity of Newark Junior High School, complaining about the noise and parking issues related to the event. The telephone calls came from residents living on Bennington Drive, Newark Blvd, Dalewood Drive, Barnard Street, Vinewood Avenue, Sandalwood Street, Lafayette Avenue, and Casey Court. The parking complaints focused on overflow parking into surrounding neighborhoods. Newark Police towed one car that was blocking a driveway on Lafayette Avenue. The noise complaints stemmed from the use of the PA system at the event.

This is not the first time an event of this magnitude received complaints. In the fall of 2015, a Ganesh Festival was held at the NewPark Mall parking lot and a Nicaraguan Festival was held at Swiss Park the same weekend. The Ganesh Festival (a four day event) drew crowds estimated by Newark Police to be in excess of 7,000 people. This resulted in extreme congestion on and around Mowry Avenue and overflow parking into surrounding

neighborhoods. Also, the Newark Police dispatch center received nearly 30 calls from residents complaining about the loud music and noise emanating from the event.

That same weekend the Nicaraguan Festival drew an estimated crowd of 800-900 people. That event resulted in intoxicated attendees getting into fights, which required mutual aid from the Fremont Police Department to quell the fights and disperse the crowd.

Because of these past events and given that they are likely to happen again, staff recommends that the Council adopt an ordinance that would require special event hosts to obtain a permit from the City before the event begins so that these events can be better planned and regulated.

Summary of Recommended Ordinance

A draft ordinance has been prepared by staff for Council review and consideration. In summary, the draft ordinance would not only require all special events to be vetted through a permitting process, but it would also make it unlawful for any permittee to violate the terms and conditions of the permit and would authorize the Newark Police Department to shut down any special event if any of the conditions are violated. Staff believes these key provisions would give the City the ability to better regulate situations such as the ones discussed above.

Other material provisions of the draft ordinance include the following:

Intent of Ordinance (Section 5.40.010). The intent of the ordinance is to ensure that special events are properly planned, do not adversely affect the surrounding community, and do not become a drain on police resources. At the same time, the City recognizes that these types of events play an important role in the life of a healthy and vibrant community and that the City has no intent on discouraging such events when they are properly planned and do not amount to a public safety concern.

Definition of Special Event (Section 5.40.020). The draft ordinance defines a “special event” as an activity that, due to the anticipated amount of attendees or the nature of the event, is not compatible with the generally intended use of the property. Special events typically require issuance of temporary ABC licenses, require traffic control procedures due to large anticipated traffic, require extraordinary police services in order to protect public safety, or the event results in impacts to adjacent property, such as amplified entertainment or parking. Under the draft ordinance, events such as the Holi Festival, Ganesh Festival, and Nicaraguan Festival would require issuance of a special event permit, whereas other activities that occur at those venues (where the events described above have been held), such as weddings or receptions, would not require a special event permit.

Exclusions (Section 5.40.020). There are numerous exclusions to the definition of a “special event” such as City sponsored events (Newark Days for example), events held at private

residences that do not require extraordinary police services, events held at religious institutions or members-only facilities that do not require extraordinary police services, events that are consistent with existing use permits, and other events that already obtain other special permits, such as parade permits, use permits, or encroachment permits.

Application for Permit (Section 5.40.040). The draft ordinance requires that any person or organization that wants to host a special event must first submit an application to the Police Department at least 45 days prior to the event. The applicant would need to disclose specific information regarding the event, such as the contact information of the sponsor, the proposed date and location, estimated number of persons that will attend, whether alcohol or food will be sold, whether any sound amplification equipment will be used, employment of any security guards, a parking plan, and a floor plan, among others.

Review of Permit Application and Conditional Approval. Upon receipt of a completed application, the Police Department will forward it to all affected departments, such as Fire, Community Development, Risk Management, and the City Manager's Office. The Chief of Police would be empowered to attach conditions that are reasonably required to assure public safety. These conditions include requiring the applicant to obtain a food permit from the County Health Department or a license from the California Department of Alcoholic Beverage Control ("ABC"), requiring the applicant to hire a licensed security guard(s), providing a refundable deposit towards extraordinary police service costs, limiting the use of sound amplification equipment, and such other conditions that are reasonably necessary to protect public health and safety. An exhaustive list of conditions can be found in Section 5.40.060.

Issuance of Permit (Section 5.40.050). Within 21 days of receiving a completed application, the Chief of Police may issue the permit that contains some conditions outlined above. The event host would be obligated to post a copy of the permit and its conditions at the event.

Denial of Permit (Section 5.40.070). The Chief of Police has the ability under the draft ordinance to deny the application if the site is inadequate for the event, if the event will have adverse impacts to residential areas, or if there are not enough public safety officers to ensure the safety of participants or attending public, among others. If the application is denied, the applicant can appeal to the City Manager for further review.

Application Fee [Section 5.40.040(B)]. The draft ordinance requires the applicant to pay a processing fee of one hundred dollars (\$100). The proposed fee takes into account the time it would reasonably take to process an application and is consistent with what other jurisdictions impose. Also, the draft ordinance exempts non-profit organizations that serve Newark residents from paying the application fee.

If the Council approves the special event ordinance, then staff recommends that the City engage in a marketing campaign so that local organizations and venues become aware of this new permitting process. This campaign would include adding an explanation and link to the

application on the City's website and distribution of informational pamphlets to local venues and organizations that explain the permitting process and explain which events require a permit and those that do not require a permit.

Attachments

Action – For the reasons outlined above, staff recommends that the Council open a public hearing, receive testimony from the public, and consider staff's recommendation to: (1) introduce an ordinance adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code to require a permit for special events held in the City of Newark and (2) adopt a resolution to amend the Master Fee Schedule to include a special event permit processing fee.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK ADDING CHAPTER 5.40 (SPECIAL EVENT
PERMIT) TO TITLE 5 (BUSINESS LICENSES AND
REGULATIONS) OF THE NEWARK MUNICIPAL CODE TO
REQUIRE A PERMIT FOR SPECIAL EVENTS HELD IN THE
CITY OF NEWARK

WHEREAS, the City of Newark (“City”) has experienced the occurrence of several large special events within the City that, due to the lack of proper planning by the event organizers, have led to numerous citizen complaints to the Newark Police Dispatch Center for parking and noise issues related to the events and have resulted in extraordinary police responses;

WHEREAS, a recent example of such an event is the Holi Festival, which was held in March, 2017, at the Newark Junior High School, in which over one thousand (1,000) people attended the event, which triggered fifteen (15) telephone calls from citizens within the vicinity, complaining about noise and parking issues and resulted in the towing of one vehicle that was blocking a residential driveway;

WHEREAS, another example is the Ganesh Festival that was held in the fall of 2015 at NewPark Mall, in which over seven thousand (7,000) people attended this four-day event, and that resulted in extreme traffic congestion on and around Mowry Avenue, resulted in overflow parking into surrounding neighbors, and caused nearly thirty (30) calls from Newark residents to the Newark Police Dispatch Center complaining about loud music emanating from the event;

WHEREAS, another example is the Nicaraguan Festival that was also held in the fall of 2015, which drew an estimated crowd of over eight hundred (800) attendees and concluded with intoxicated attendees getting into fights, which required mutual aid from the Fremont Police Department to quell the fights and disperse the crowd;

WHEREAS, these examples illustrate that the lack of proper planning by event organizers has resulted in circumstances requiring an extraordinary public safety response for the immediate protection of public health, welfare, and property;

WHEREAS, these examples further illustrate that special events that are not properly planned may result in unanticipated costs, divert critical city resources, and may leave other areas of the City with inadequate public safety protection;

WHEREAS, the City recognizes that, when planned correctly, special events do play an important role in the life of a healthy and vibrant community;

WHEREAS, the City Council desires to regulate special events and require that they undergo a permitting process so as to ensure that events are planned correctly, minimize negative impacts on surrounding neighborhoods, and to assure the safety and protection of the public that attends the event; and

WHEREAS, the City is authorized by California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

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

SECTION 1. Addition to the Newark Municipal Code. Chapter 5.40 (“Special Event Permit”) is hereby added to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code, a true and correct copy of said Chapter is attached hereto as EXHIBIT “A” and incorporated as though fully set forth herein.

SECTION 2. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in the Tri-City Voice, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

EXHIBIT "A"

Chapter 5.40 SPECIAL EVENT PERMIT

Sections:

- 5.40.010 Purpose and Findings.**
- 5.40.020 Definitions.**
- 5.40.030 Permit required – unlawful conduct.**
- 5.40.040 Application for permit.**
- 5.40.050 Issuance of permit.**
- 5.40.060 Conditional approval.**
- 5.40.070 Grounds for denial.**
- 5.40.080 Denial of permit—right to appeal.**
- 5.40.090 Indemnification**
- 5.40.100 Revocation of permit.**
- 5.40.110 Violation – penalty.**
- 5.40.120 Public Nuisance.**
- 5.40.130 Alternative remedies.**
- 5.40.140 City staff and extraordinary police response costs – collection and appeal.**
- 5.40.150 Severability.**

5.40.010 Purpose and Findings.

- A. The city council hereby finds and declares that special events, such as fairs, carnivals, 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 and other health and safety impacts. At times, lack of proper 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 and procedures for the issuance, conditional issuance, and denial of a permit for such events. This chapter is further intended to create a mechanism for cost recovery for planned events that result

in a need for extraordinary police responses. It is not intended to supplant or repeal Chapter 7.10, "Multiple Responses to Events".

- 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 chapter 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.

5.40.020 Definitions.

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Applicant" means any person, firm, association, corporation, organization, club or ad hoc committee who or which seeks a special event permit from the city, through the Chief of Police, to conduct or host a special event governed by this chapter. An applicant, or duly authorized representative if the applicant is not a person, must be eighteen (18) years of age or older. The applicant shall be the individual who is directly responsible for organizing and/or conducting the event and/or the facility manager.

"Chief of Police" means the Chief of the Newark Police Department or his or her designee.

"City staff costs" means those costs for non-police City employees needed to perform work at the special event, including, but not limited to, public works staff performing road closures and/or traffic control, pursuant to the master fee schedule as may be amended from time to time.

"Entertainment" means providing to the public food and/or beverages; live or recorded music; dancing; mechanical, animal or carnival rides; games of chance; car shows; performances and/or plays; audiovisual presentations; amplified sound; competitive or sporting events; and/or promotional events.

"Extraordinary police services" means responsive police services which are in addition to and in excess of the normal police services provided to the facility or off-site as a direct result of the special event at the facility.

"Extraordinary police costs" means those costs for extraordinary police services relating to personnel and administration pursuant to the master fee schedule as may be

amended from time to time, equipment, mutual aid, damages to city property and/or costs incurred due to any injuries to city personnel.

"Facility" means the building, room or place where the special event is to take place.

"Special event" (hereinafter "event") means, for the purposes of this chapter, any activity on public or private property that, due to the anticipated amount of attendees or the nature of the event, is not compatible with the generally intended use of the property for which it is proposed and is characterized by any of the following:

1. Requires city services to ensure compliance with state or local laws; for example, temporary licenses issued by the California Department of Alcoholic Beverage Control, or temporary structure permits;
2. Involves use of city owned or managed property such as public streets, sidewalks, parking lots, plazas or other city owned or managed open spaces;
3. Involves closure, or partial closure, of any public right-of-way, or requires traffic control procedures necessitating the involvement of police or street maintenance personnel;
4. Impairs emergency vehicle access;
5. Requires extraordinary police services in order to protect public safety, health, and/or welfare; or
6. Results in impacts to adjacent public or private property because of, for example, the use of live or amplified entertainment or the anticipated impacts on parking.

Exclusions. The following activities shall not be considered a "special event" within the meaning of this chapter and therefore they do not require a special event permit:

- A. An event sponsored by the city, including, but not limited to "Newark Days celebration" as defined and described in chapter 8.34 of this code;
- B. An event held at a city facility pursuant to a facility rental agreement and it is reasonably foreseeable in the opinion of the Chief of Police that no extraordinary police services are required;
- C. An event held in a private residence where no admission is charged, the event is not open or advertised to the public, and it is reasonably foreseeable in the opinion of the Chief of Police that no extraordinary police services are required;

- D. An event held in a members-only facility at which the only participants are the members (and their invited nonpaying guests) and it is reasonably foreseeable in the opinion of the Chief of Police that no extraordinary police services are required;
- E. Events sponsored by religious entities held in the religious entity's facility that only members by permission attend and it is reasonably foreseeable in the opinion of the Chief of Police that no extraordinary police services are required;
- F. Events that are authorized by and consistent with existing use permits and licenses governing the establishment, unless that person, entity, or business holds an event that, in the opinion of the Chief of Police, will foreseeably result in impacts on public safety, health, welfare, and police resources; and
- G. Any entertainment for which other special permits have been obtained, such as, but not limited to, parade permits, dance permits, fireworks permits, use permits, and short-term encroachment permits and it is reasonably foreseeable that no extraordinary police services will be required.

5.40.030 Permit required – unlawful conduct.

It is unlawful for:

- A. Any person, group, organization or entity to sponsor or conduct an event unless a special event permit as may be required under this chapter has been issued for the special event;
or
- B. Any person, group, organization or entity to participate in an event with the knowledge that the sponsor of the event has not been issued the required permit; or
- C. The permittee or event sponsor, or any person with knowledge of the permit, to violate the terms and conditions of the permit.

5.40.040 Application for permit.

- A. An application for a special event permit shall be made to the Newark Police Department at least forty-five (45) calendar days prior to the event and shall be fully and truthfully completed by the applicant.
- B. Upon application, the applicant shall pay a nonrefundable fee as established by the master fee schedule as adopted by the city council and as may be amended from time to time. The fee shall cover the actual costs of processing and investigating special event applications. However, the Chief of Police shall waive the fee upon proof that the applicant is a nonprofit organization duly organized under Federal law primarily for

veteran, patriotic, welfare, youth activity, civic betterment, or charitable purpose and that has its principal place of business in the City of Newark or provides services to or benefits to residents of the City of Newark.

C. The application for a special event shall provide all of the following information:

1. The name, address, telephone number, and date of birth of applicant. If the applicant is not a natural person, then the name, address, and telephone number of a duly authorized representative of the organization who is primarily responsible for hosting or sponsoring the event shall be provided;
2. The name, address, and telephone number of the person who will be present at and in charge of the event;
3. The nature and purpose of the event;
4. The proposed date, location, and estimated start time and end time of the event;
5. Estimated number of persons attending the event;
6. Description of any sound amplification equipment that will be used and a plan for control of noise, including, but not limited to, the noise generated by the amplification equipment, motors, and other equipment, that may affect nearby premises, with special attention to prevention of noise nuisance to nearby residences, if any;
7. Number of bands and/or other musical units and the nature of any equipment to be used to produce sounds or noise;
8. Any lighting equipment and its proposed location;
9. Whether alcoholic beverages will be sold or offered to event attendees;
10. Whether any food will be prepared and/or sold at the event and, if so, the type of cooking equipment that will be used to prepare such food, including any equipment that emits an open flame;
11. Whether security persons will be present at the event;
12. Anticipated parking needed and a parking plan that is designed to minimize negative impacts of the event parking on adjacent properties;
13. Number and location(s) of portable sanitation facilities;
14. Provisions for first aid and/or emergency medical services based on the risk factors of the event;
15. A detailed floor plan and site plan of the premises showing the building(s) interior and exterior grounds, including parking spaces, amusement ride locations, eating arrangements, dance floor area, bar location, fire exits, and the dimension of each portion with the layout of the special event, when applicable;
16. A trash and litter collection and off-site disposal plan;
17. The manner of providing notice of the permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the event;

18. A statement as to whether the applicant will have insurance and/or surety bond coverage and, if so, reasonable proof of such coverage;
 19. If the applicant is not the registered owner of the facility where the event is to occur, then a copy of the rental agreement between the applicant and the facility owner, or their respective agents, shall be attached to the application;
 20. A copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt, non-profit organization with a principal place of business in the City of Newark;
 21. Copies of any application to and/or permits received from any other governmental agency having jurisdiction over the event, including, but not limited to, Alameda County Fire Department and/or Alameda County Health Department; and
 22. Any such further information pertaining to public health and safety that the Chief of Police shall find reasonably necessary to review and consider the application.
- D. Within twenty-one (21) days of receiving an application, the Chief of Police shall act on the application and shall either approve, conditionally approve, or deny the application.

5.40.050 Issuance of permit.

The Chief of Police shall approve the application if it is timely, complete, there are no grounds for denial under section 5.40.070, and the applicant has paid all required fees. The permit granted herein shall be nontransferable. A copy of the permit shall be posted in a conspicuous place at the facility where the event is held and at all times during the event.

5.40.060 Conditional approval.

The Chief of Police shall impose conditions to the permit that are reasonably required to assure the protection of the public health, the safety of persons attending the event and local residents near the event, and the safety of property at or near the event. The conditions shall be in writing and shall be attached to the permit. The conditions may include, but are not limited to, the following:

- A. Requiring the applicant to retain or hire one or more licensed, bonded, and insured security guards to attend and provide security at and during the event;
- B. Requiring the applicant to be personally present at all times during the event;
- C. Conditions concerning accommodation of pedestrian or vehicular traffic;
- D. Restrictions on the use of sound amplification equipment and restrictions on the amount of noise generated by motors and other equipment used in the course of the event;
- E. Requiring compliance with any relevant ordinance or law;

- F. Conditions pertaining to the manner of providing notice of the permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the event;
- G. Requiring that the applicant, prior to the start of the event, tender payment to the city of a refundable deposit toward the costs of city staff costs and/or extraordinary police services and/or cost to of damages to public facilities that may be associated and reasonably foreseen with such event. The Chief of Police, in his or her reasonable discretion, shall determine the amount of the deposit and may consider all known factors, including, but not limited to, the use of police and/or city resources at previous events hosted by the same applicant or sponsor or such other similar events that occurred at the facility in the past;
- H. In food is served at the event, requiring that the applicant, prior to the start of the event, to obtain appropriate permits from the Alameda County Health Department;
- I. If alcohol is served at the event, requiring that the applicant, prior to the start of the event, to obtain appropriate permits from the California Department of Alcoholic Beverage Control;
- J. If the event takes place on city owned property, requiring that the applicant provide, prior to the start of the event, proof of liability insurance naming the city as an additional insured in an amount and form acceptable to the city attorney; and/or
- K. Requiring such other additional conditions as are reasonably necessary to protect the public health, safety, welfare and order, and to minimize adverse impacts upon the surrounding neighborhood and general community.

5.40.070 Grounds for denial.

- A. The Chief of Police shall deny a permit if there exists reasonable evidence that:
 - 1. Information contained in the application, or supplementary information requested from the applicant, is false, incomplete, or intentionally misleading in any material respect;
 - 2. The site is physically inadequate for the type, density, or intensity of use being proposed;
 - 3. The security arrangements that have been made are inadequate;
 - 4. The event will have adverse impacts to a residential area;
 - 5. The applicant previously had a permit revoked for violation of permit conditions or for unlawful conduct relating thereto and it is reasonably foreseeable that similar violations or unlawful conduct will again occur;
 - 6. The time or size of the event is likely to substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic in the immediate vicinity of

the event, or disrupt the use of a street at a time when it is usually subject to significant traffic congestion;

7. 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 attending public;
 8. The size or duration of the event will require diversion of so great of an amount of city police services that providing for the minimum level of police services to other areas in the city is jeopardized;
 9. 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 or 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;
 10. The application was submitted so close in time to the event that there is insufficient time to investigate and process the application;
 11. The applicant refuses to acknowledge in writing that he/she will comply with all terms and conditions of the permit;
 12. The applicant has unpaid extraordinary police costs or outstanding and unpaid debts to the city;
 13. The proposed activity is prohibited by any applicable law;
 14. The applicant, his or her agent or employees, or any person who exercising managerial authority on behalf of the applicant, has engaged in misconduct or has been convicted of, or pled no contest to, a crime substantially related to the qualifications, functions or duties of a permittee, including, but not limited to, violent crimes, crimes against children, and drug-related crimes; or
 15. The granting of the permit will have a substantial, adverse impact upon public health, safety, or order.
- B. The Chief of Police shall state, in writing, all reasons for denial of the permit.

5.40.080 Denial of permit—right to appeal.

- A. Any applicant whose application is denied may appeal such decision to the city manager by filing a written notice of such appeal with the city clerk within ten (10) calendar days of receiving the notice of denial. The appeal shall provide the name, address, and telephone number of the applicant, a description of the specific grounds for the appeal, and request the relief sought.
- B. The city manager, or his/her designee, shall set the matter for hearing within fourteen (14) calendar days of the filing of said notice. Written notice of the time and place of such hearing shall be served upon the applicant at least five days prior to the date set for such hearing. Notice may be given by personal delivery, or by depositing in the U.S.

mail in a sealed envelope, postage prepaid, addressed to the person identified in the appeal.

- C. Within five (5) calendar days after the hearing, the city manager, or his/her designee, shall send written notice to the applicant either granting the permit or containing a statement on the grounds relied upon for denying the permit.
- D. The decision of the city manager, or his/her designee, is the final decision of the city.

5.40.090 Indemnification

To the extent authorized by law, the permittee shall defend, indemnify and hold harmless the city, its officers, agents, employees, and volunteers from any and all claims, causes of action, penalties, losses, expenses (including reasonable attorneys' fees) and any other liability for injuries or damage to persons or property resulting from the event that were caused by the omissions or authorized acts of permittee's officers, agents or employees.

5.40.100 Revocation of permit.

- A. A police officer with the rank of Lieutenant or above may revoke the permit at any time during the event if any of the following occurs:
 - 1. Violation of any of the imposed permit conditions;
 - 2. The permit is being used to conduct an activity that is different than that for which it was issued;
 - 3. Failure to obtain and post any permit required by any governmental authority having jurisdiction over the event, including, but not limited to the California Department of Alcoholic Beverage Control and/or the Alameda County Health Department; or
 - 4. The occurrence of any unlawful or criminal activity during the event.
- B. Revocation shall be immediately effective upon public announcement of the revocation by any police officer present at the event.

5.40.110 Violation – penalty.

Any person who violates any provision of this chapter, including, but not limited to, any person who holds or sponsors an event without obtaining a permit as required under section 5.40.030 or any person who refuses to terminate an event for violation of event conditions as required under section 5.40.080, shall be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars, or imprisonment in the county jail for a period not exceeding six

months, or both. Each day, or portion thereof, that such violation continues or reoccurs shall be a new and separate violation.

5.40.120 Public Nuisance.

The holding or conducting of any special event subject to the provisions of this chapter without issuance of a valid permit or holding or conducting an event in violation of the provisions of its permit, is hereby declared a public nuisance that is subject to abatement under this code.

5.40.130 Alternative remedies.

The provisions of this chapter are in addition to the authority of the police or other city officials to regulate events or enforce this code or other applicable law, and shall supplement, and not supplant, the exercise of any the power available to the city or the enforcement of any other law within the jurisdiction of the city. Any remedies may be pursued by the city individually, consecutively, or in conjunction with each other.

5.40.140 City staff and extraordinary police response costs – collection and appeal.

- A. All city staff costs and/or extraordinary police costs shall be recovered from any or all persons responsible for the event, including the event sponsors, promoters, facility operators, and/or facility owners, who shall all be jointly and severally liable. The city shall submit bills to the responsible persons, which shall be due within thirty (30) days of the date the bill is deposited in the mail.
- B. If a deposit is made by the permittee as a condition to the issuance of the permit as authorized in subsection 5.40.060(G) and the actual cost for city staff costs and/or extraordinary police response costs exceed the deposit, then any costs that exceed the deposit shall be billed to those persons responsible for the event and shall be due within thirty (30) days of the date the bill is deposited in the mail.
- C. If the actual cost for city staff costs and/or extraordinary police response fees is less than the deposit amount imposed as a condition of the permit as authorized in subsection 5.40.060(G), then the city shall promptly issue to the permittee a refund of the difference. In the event the permittee desires to host another special event within forty-five (45) days of the event, then permittee, at permittee's election, may ask the City to apply the difference towards a deposit for the next event. This provision shall in no way be construed so as to limit or constrain the ability of the Chief of Police to determine the

amount of the deposit, taking into account all known factors in accordance with section 5.40.060(G).

- D. Any monies that are owed under this chapter that have not been paid within the thirty (30) days of the date the bill is deposited in the mail shall be a debt owed to the city. The city may collect the debt in any manner prescribed by law, including but not limited to, placement of a property lien and/or initiation of a judicial action and/or collection process.
- E. Any person or entity that has been assessed police response costs may appeal the costs using the procedures contained in chapter 7.22 of this code.

5.40.150 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, invalid, or ineffective.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING THE 2017-2018 MASTER FEE
SCHEDULE TO ADOPT A NEW FEE FOR PROCESSING
SPECIAL EVENT PERMIT APPLICATIONS

WHEREAS, on June 23, 2017, the Newark City Council adopted a Master Fee Schedule to take effect July 1, 2017;

WHEREAS, said Master Fee Schedule authorizes the City of Newark to charge money to individuals, groups, or business entities in order to cover the costs of providing services to individuals, groups, and business entities;

WHEREAS, concurrently considered herewith, the City Council of the City of Newark introduced an ordinance adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code in order to require hosts of special events to obtain a special event permit from the City of Newark;

WHEREAS, the City Council of the City of Newark desires to charge a fee of one hundred dollars (\$100) to cover the costs of processing applications for special event permits;

WHEREAS, the City caused to be published in the Tri-City Voice, a newspaper of general circulation in the City of Newark, a Public Hearing Notice informing the public that on September 14, 2017, at or near 7:30 p.m. the Newark City Council will consider introducing an ordinance amending the Newark Municipal Code to require a permit for special events held in the City of Newark and, by resolution, adopt a new Special Event Permit Processing Fee;

WHEREAS, said notice was duly published on August 29 and September 5, 2017;

WHEREAS, on September 14, 2017, the Newark City Council opened a public hearing;
and

WHEREAS, after opening said public hearing and after consideration of all of the testimony received and all items in the record, the City Council of the City of Newark does hereby desire to amend the Master Fee Schedule to reflect the aforementioned changes.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby amend the 2017-2018 Master Fee Schedule by adding the following addition to page five (5):

I. GENERAL FUND – POLICE

O. PERMITS

Enterprise Fund Center – Cost Center 010-0000

Account Number 3160

<u>Description</u>	<u>Fee (in dollars)</u>
....	
12. Special Event Permit	100

BE IT FUTHER RESOLVED that the City Council of the City of Newark finds and declares that one hundred dollars (\$100) reflects a fair and reasonable cost of processing applications for special events permits; and

BE IT FURTHER RESOLVED that this new fee shall take effect upon the effective date of the Ordinance adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) that is being concurrently adopted herewith.