

Capitola City Council

Agenda Report



Meeting: March 28, 2024

From: Police Department
Recreation Department
City Manager Department

Subject: Special Events and Park Regulations

Recommended Action: Adopt an ordinance of the City of Capitola repealing and replacing Capitola Municipal Code Chapter 9.36 "Special Events" and Chapter 12.40 "Park Regulations" to create a comprehensive permitting system for public assemblies, events, and use of City property.

Background: On March 14, 2024, the City Council unanimously approved the introduction of the ordinance to repeal and replace Capitola Municipal Code Chapter 9.36 and Chapter 12.40, with edits read into the record by the City Attorney.

Discussion: The proposed ordinance intends to protect the Constitutional rights of the people of Capitola to peaceably assemble and protest in the City's public spaces. The proposed revisions to the Municipal Code also create a mechanism for cost recovery and use charges to the extent authorized by law, while not unduly impacting the viability of special events in the City.

Special Events

The proposed revision to Municipal Code Chapter 9.36 establishes a permitting system for special events in the City, which generally mirrors the existing process the City has used over the last decade to permit special events. The primary changes are intended to clarify what differentiates a minor from a major event, and explicitly allowing Constitutionally protected expressive activity. Similar to the City's existing processes, the proposed ordinance identifies three categories of special events on public property that would require a permit:

1. Minor Special Events: an organized assemblage between 75 and 200 people, not requiring closure of a major street (as defined in proposed Section 9.36.020(H)) or a street in a single-family or multi-family zone.
2. Neighborhood Special Events: an event organized for up to 200 people requiring closure of a street in a single-family or multi-family zone. This replaces the City's Block Party Permit.
3. Major Special Events: any of the following:
 - a. Any organized assemblage of more than 200 people on any public property gathering for a common purpose under the direction or control of a person; or
 - b. Any organized assemblage on any public property gathering for a common purpose under the direction or control of a person or organization and that requires closure of a Major Street; or
 - c. Any other organized assemblage conducted by a person for a common or collective use, purpose, or benefit which shall require extensive use of City public services for police regulation, monitoring or control, erecting barriers, or traffic control, parking needs that will exceed the capacity of the venue, or that will significantly interfere with normal use and operation of public right-of-way for travel.

The following events/activities would not require permits under the proposed Chapter 9.36:

1. Constitutionally protected expressive activity on City-owned, controlled, or maintained property that is not a Minor, Neighborhood, or Major Special Event;
2. Activities on school grounds;

3. Spontaneous events, under certain conditions;
4. Activities comprising or involving construction, maintenance, or requiring a City-issued encroachment permit; or
5. Filming, as regulated by Chapter 9.62. (Proposed § 9.36.030(B).)

The proposed ordinance defines expressive activity as “conduct, the sole or principal object of which is the expression of opinion, views, or ideas protected by the First Amendment of the U.S. Constitution,” and includes, but is not limited to, “public oratory and distribution of literature” (Proposed § 9.36.020(E).)

The Police Chief (or his/her designee) would issue Minor and Neighborhood Special Event Permit applications. In general, the City Council would issue Major Special Event Permit applications. However, permit applications for *recurring* Major Special Events, defined as Major Special Events that recur every year, do not require new or different levels of City services from year to year, and that did not present major public safety or traffic issues in the prior year may be reviewed and issued by the Police Chief or designee without City Council approval. The proposed Chapter 9.36 also requires the Police Chief or designee to provide annual updates to the City Council regarding Minor and Major Special Events from the prior year. (Proposed § 9.36.070(E).)

The proposed ordinance provides that the City Council shall set Special Event application fees and fees to recover costs for safety services (such as public safety personnel, solid waste and recycling services, City lifeguard services, and traffic control costs) by resolution.

Parks Regulations

The proposed revision to Municipal Code Chapter 12.40 establishes a permitting procedure for renting portions of City parks and recreation facilities for exclusive use and to ensure compliance with Constitutional prerogatives protecting freedom of speech and assembly. Under these proposed revisions, the City Council shall adopt a Parks Policy identifying specific areas of city parks that are available for exclusive use. Organizers of such events must obtain a permit from the City Manager, or his/her designee. Moreover, individuals who wish to use powered equipment or temporary structures (such as a bounce house or shade structure) in a City park or recreation facility must also obtain a permit pursuant to the requirements of the Chapter. However, if the event requiring exclusive use of a park identified in the Parks Policy would be considered “expressive activity,” it would instead be subject to the Special Events permitting requirements discussed above. The proposed ordinance also requires a permit for exclusive use of a City Recreation facility, such as softball fields or the bandstand.

Similar to the proposed Special Events Chapter above, the City Council may also adopt a resolution establishing fees to recover the City’s cost of processing applications or for providing services for events in City parks and recreation facilities. (Proposed § 12.40.120.)

Fiscal Impact: The proposed ordinance provides for the City Council to adopt, by resolution, fees to recover the City’s costs of processing applications for Special Events and Parks permits (discussed above), and costs associated with providing services to support and staff these proposed events. The City’s fee schedule currently sets some of these fees. However, staff intends to conduct an internal review of the costs associated with these events and return to the City Council with proposed revisions to the City’s fee schedule if necessary.

Attachments:

1. Ordinance – Chapter 9.36 & Chapter 12.40

Report Prepared By: Sarah Ryan, Administrative Captain, Nikki Bryant, Recreation Division Manager

Reviewed By: Tamar Burke, Assistant City Attorney

Approved By: Jamie Goldstein, City Manager