

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING
TOWN CODE CHAPTER 14, ARTICLE X. - SPECIAL EVENTS**

WHEREAS, the Town recognizes the substantial community benefit that may result from community events, which can provide cultural enrichment and economic vitality and can enhance community identity; and

WHEREAS, the purpose of this ordinance is to provide a coordinated process for managing community events to ensure the public health, safety and welfare of event patrons, residents and other visitors, and to provide for fees, charges and procedures required to administer the permit process;

NOW, THEREFORE, THE PEOPLE OF THE TOWN OF LOS GATOS AND THE TOWN COUNCIL DO HEREBY ORDAIN AS FOLLOWS:

SECTION I

Los Gatos Town Code Chapter 14, Article X - "Special Events" is hereby amended to read:

ARTICLE X. - SPECIAL EVENTS

Sec. 14.100.010. - Purpose and intent.

The Town of Los Gatos recognizes the social, cultural and economic enrichment that special events bring to the Town and recognize that those coordinated by non-profit organizations that provide proceeds to charitable organizations provide a community benefit. These events enhance the Town's lifestyle and provide benefits to the citizens and businesses. It is incumbent upon the Town to establish policies and procedures which allow for the advance planning and management of Town personnel and financial resources. It is the intent of the Town to protect the rights of its citizens by establishing the least restrictive and most reasonable manner of regulation to maximize the benefits and minimize the burdens of special events. This article is intended to be interpreted in a manner compatible with the Constitutions and laws of the State of California and the United States.

Sec. 14.100.015. - Definitions.

- (a) *Advance promotional activity* . Posting, display, or distribution of signs, banners, leaflets, mailing and publications promoting a future special event.

ATTACHMENT 1

- (b) *Applicant* . A person or organization who seeks a permit to conduct a special event governed by this article.
- (c) *Block party* . An outdoor neighborhood gathering coordinated by the residents of that neighborhood that includes the closure of a public right of way within an area zoned for residential use. Block parties may not include the closure of arterial streets and may not be for commercial, for-profit, or advertising purposes.
- (d) *Conditions of approval or letter of conditional approval* . Requirements with completion timelines concerning the time, place, scope of the event, required permits from other government agencies, vendor provisions, payment of applicable fees and deposits, and other provisions including but not limited to conditions to protect the safety of persons and property, provide for adequate traffic control, and regulate the sale and service of food and/or alcohol. Such criteria shall be set forth by the Town Manager to the permittee in writing outlining specifics that must be met prior to the final approval for and issuance of the special event permit.
- (e) *Free speech event* . An event, at which the expression of free speech rights is the principal purpose. "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.
- (f) *Permittee* . Any applicant to whom a special events permit is issued.
- (g) *Special event* . Any event, which is scheduled to take place on or contiguous to a Town street, sidewalk, alley or other right-of-way or on Town property including its parks and the grounds of its buildings, which in the judgment of the Town Manager is likely either:
 - (1) To obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic; or
 - (2) To attract participants or spectators who are not likely to comply with traffic laws or controls; or
 - (3) To generate a crowd of sufficient size likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, or to restrict access to parks, recreation areas or other public areas; or
 - (4) To require police regulation, monitoring, or control to maintain public safety.

Examples of special events may include, but are not limited to: athletic events such as runs, walkathons, bicycle races, etc., parades, street fairs, festivals, carnivals, car rallies, farmers markets, sidewalk sales, outdoor music concerts, and gatherings of merchants, craftsmen, artists or other sellers of goods for the primary purpose of display and sale to the public of arts, crafts or goods.

- (h) *Special event permit* . Written approval issued by the Town Manager for the permittee to conduct the special event as described and conditioned within the conditions of approval. The special event permit is issued after all conditions of approval have been addressed to the satisfaction of the Town Manager.

- (i) *Town Manager* . The Town Manager or his or her designee
- (j) *Vendors* . Entities that are hired or contracted by the permittee to carry out a service associated with the proposed event.

Sec. 14.100.020. - Permit.

- (a) *Required* : Any person intending to conduct a special event in the Town of Los Gatos shall obtain a special events permit. No advance promotional activities for a special event shall be commenced before obtaining a letter of conditional approval.
 - (1) Series events, special events applying to operate as a series on Town property may obtain one special event permit for a period not to exceed twelve (12) months, and require consent of landlord by the Town Manager, or the Town Council at the discretion of the Town Manager. (Examples include: Summer Concert Series, Farmer Market, etc.)
 - (2) An executed contract for an event or series event does not replace the requirement of the special event permit.
- (b) *Exceptions* : A special events permit is not required for the following events:
 - (1) Funeral processions.
 - (2) Activities conducted by a governmental agency acting within the scope of its authority.
 - (3) A special event organized, implemented, and led by the Town of Los Gatos.

Sec. 14.100.025. - Application for special events permit.

- (a) *Time for filing* . Application for a permit shall be filed with the Town Manager no later than thirty-six (36) hours before a Free Speech Event, no later than ~~sixty (60)~~ thirty (30) days before a block party, and no later than ~~ninety (90)~~ sixty (60) calendar days and no sooner than one (1) year before a special event.
- (b) *Form for application* . An official Town of Los Gatos special event permit application must be completed and submitted to the Town Manager within the time for filing.
- (c) *Application fee* . A nonrefundable administrative fee set by Council resolution shall be charged for each application, except that any fee for a permit for a free speech event shall be waived upon a showing to the satisfaction of the Town Manager on appeal, that the fee is so burdensome to the sponsor and/or the applicant that it is likely to interfere with the exercise of constitutional rights of speech or assembly.
- (d) Unless changes are at the request of the Town Manager, any "significant deviation" in an event plan as proposed within the original special event permit will require submittal of a new special event permit application. "Significant deviations" include but are not limited to a change in the scope, intensity, location, type, or size of an event, and is at the discretion of the Town Manager.

Sec. 14.100.030. - Action on application.

- (a) *Consultation* . The Town Manager shall consult with all Town departments which may be affected by the proposed special event.
- (b) *Time for action* . Within ~~forty five (45)~~ thirty (30) days of submittal of a complete application for a special event permit, and within one (1) working day of submittal of a complete application for a free speech event, the Town Manager shall approve, conditionally approve or deny the application. The times for action may be extended by mutual consent of the applicant and the Town Manager, or if the Town Manager does not have enough information to approve, conditionally approve, or deny the application. The Town Manager, if possible, shall expedite action on an application for a free speech event when it is apparent that the purpose of the demonstration would be frustrated if not conducted at a certain date and time.
- (c) At the Town Manager's discretion, any event may be escalated to the Town Council for review or approval.

Sec. 14.100.035. - Denial.

- (a) *Grounds for denial* . Applications for special events permits may be denied for any of the following reasons:
 - (1) Information contained in the application or supplemental information requested from the applicant is found to be materially false or misleading.
 - (2) The application was incomplete or supplemental information or documents were not provided in a timely manner.
 - (3) A permit for another special event at a time and place that would conflict with the proposed event, or cause undue traffic congestion, or create excessive demands for police or other Town services has already been approved.
 - (4) The time, route, or size of the event is likely to substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route, or to disrupt the use of a street at a time when it is usually subject to significant traffic congestion.
 - (5) The concentration of persons, animals and vehicles at the site or assembly and disbanding area is reasonably likely to prevent proper police, fire or ambulance services to areas contiguous to the event.
 - (6) The size of the event is likely to unreasonably compromise normal police protection to the rest of the Town.
 - (7) The location of the event is likely to substantially interfere with construction or maintenance work previously scheduled to take place upon or along Town streets, or to interfere with a previously granted encroachment permit.
 - (8) The special event is likely to occur at a time when a school is in session, at a route or location adjacent to a school, and the noise created by the activities of the event would substantially disrupt the educational activities of the school.

- (9) The special event will occur on a route or location adjacent to a hospital or extended care facility and the noise created by the event would substantially disrupt the operation of the hospital or extended care facility or disturb the patients within.
 - (10) The special event has a prior history of creating conditions that jeopardize the peace and safety of the citizenry.
 - (11) The applicant has previously violated special event permit conditions.
 - (12) The applicant refuses to indicate in writing that he or she will comply with all terms and conditions if the permit.
 - (13) The scope, intensity, location, type, or size of event deviates from the description provided on the special event application. A new application may be submitted to reflect the deviation given the provisions of this Chapter 14, Section 100 may be met.
- (b) *Limitation on denial of free speech event permits* . In determining whether or not a free speech event permit should be denied, the Town Manager shall resolve all doubts in favor of approval or conditional approval. If the grounds for denial are specified in (a)(3) through (9) of this section, the Town Manager may alter the date, time, place, duration, route, or location of the of free speech event and conditionally approve the application instead of denying it. The conditions imposed shall modify the proposed event only to the extent necessary to avoid the grounds for denial.

Sec. 14.100.040. - Fees.

Fees shall be set by Council resolution shall be charged for each application,

- (a) *Fees* . The conditions of approval shall provide a reasonable estimate of fees to be collected by the Town for Town resources required by the event. Any required deposits shall be paid in full prior to the event date. ~~Fifty (50) percent of the estimated fees shall be collected no less than twenty-one (21) days before the event date.~~ Within twenty-one (21) days after the completion of the event, the Town will provide an invoice for the ~~remaining~~ fees to be collected by the Town. The Town reserves the right to fully invoice the event sponsor after the event for any and all Town resources required before, during and after the event, or for damages to Town property directly related to the event activities.
- (b) At times, poor planning by event organizers may result in circumstances requiring an extraordinary public safety response for the immediate protection of public health and welfare. Such incidents result in unanticipated costs and divert critical Town resources, which may be passed along to the event sponsor.

Sec. 14.100.045. - Revocation of permit before special event.

- (a) *Reasons* . The Town Manager may revoke a permit at any time if:
 - (1) An emergency arises making it impossible to assign sufficient or appropriate personnel to the event to protect public safety; or

- (2) Information is obtained after the permit is issued from which it may be reasonably concluded that the permit should have been denied under section 14.100.040.-
 - (3) Environmental factors, such as a natural disaster or public health emergency arises that would jeopardize the health and safety of the public if the event were held.
- (b) *Notice of revocation* . The applicant shall be informed in writing of the grounds for any such revocation.
 - (c) *Appeal of permit revocation* . The applicant may appeal a revocation in the manner provided for in section 14.100.055 in all cases except where the revocation is based on emergency and there is insufficient time available to present or schedule an appeal.

Sec. 14.100.050. - Revocation of permit during special event.

The Town Manager may revoke the permit during a special event for either of the following reasons:

- (a) That the event has deviated from or will deviate from its approved route or area; or
- (b) The event and/or its participants or vendors are violating the law or permit conditions.
- (c) The permittee has been advised of and given an opportunity to control such deviation or violation and refused or failed to do so.
- (d) If fire or another emergency requires the event to be terminated to protect public safety. When a permit is revoked for this reason, all event participants must immediately comply with the instructions of public safety or the Town Manager.

Sec. 14.100.055. - Appeal process.

- (a) *Normal appeal* . Any applicant aggrieved by the denial or conditional approval of a special event permit may appeal the decision to the Town Council by filing a notice of appeal with the Town Clerk within ten (10) days of the delivery of the decision. The Town Clerk shall set the date and time for the public hearing within forty-five (45) days of the filing date and shall give notice to such person of the time and place of hearing as prescribed by law.
- (b) *Expedited appeal for free speech event* . If there is insufficient time for a timely appeal of denial or conditional approval of a free speech event events permit to be heard by the Town Council prior to the date on which a free speech event is scheduled, the applicant may request that the Town Clerk schedule the appeal before the Town Manager. The Town Manager shall hold hearing no later than twelve (12) hours prior to the time the event is scheduled to commence and will render a decision as soon as practicable and in no case later than the time the event is scheduled to commence. The Town Manager's decision shall be final.

Sec. 14.100.060. - Posting of special event permit.

The special event permits and any other required Town licenses and permits shall be maintained at the site during the special event and exhibited upon request of any Town police officer or Town event staff if it is determined that the event is in violation of the special event permit conditions or if an emergency requires termination of the special event to protect public safety. Notices of revocation shall be in writing with the reasons for revocation specifically set forth, unless time does not permit, in which case the notification shall be verbal and followed, at a later date, by written notice explanation.

Sec. 14.100.065. - Violations.

- (a) It shall be unlawful for any persons to sponsor or conduct a special event without a special event permit.
- (b) It shall be unlawful for any person to participate in a special event with the knowledge a special event permit has not been issued.
- (c) It shall be unlawful for a permittee or sponsor to willfully violate the terms and conditions of a special event permit, or for any special event participant to knowingly and willfully violate the terms or conditions of the special event permit.
- (d) It shall be unlawful for any person to hamper, interfere with, obstruct or impede any special event which has been permitted under this ordinance or to park or leave a vehicle unattended in violation of parking control signs posted regarding a special event.
- (e) It shall be unlawful for any person to drive a vehicle, bicycle or other moving object or propellant, between the persons or vehicles comprising any permitted special event, unless such activity is undertaken at the direction of a Town peace officer, an authorized security person, or event monitor.
- (f) In addition to fees covering Town resources, permit violations may result in fines at the discretion of the Town Manager. All permit violations and fines shall be provided to the event sponsor in writing within twenty-one (21) days after the completion of the event.
- (g) It shall be a misdemeanor for any special event participant to fail or refuse to comply with a revocation order made pursuant to section 14.100.070.

SECTION II

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds that these Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment.

SECTION III

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidly shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION IV

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION V

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 21st day of April, 2020, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 5th day of May, 2020. This ordinance takes effect 30 days after it is adopted. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c)(1).

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____