



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

**STAFF REPORT**  
**August 9, 2012**

Honorable Members of the  
Law and Legislation Committee

**Title:** Ordinance Adding Chapter 12.74 to the Sacramento City Code: Use of the City Hall Facility

**Location/Council District:** Citywide - All

**Recommendation:** Approve and forward to City Council an ordinance adding Chapter 12.74 to the Sacramento City Code relating to the use of the City Hall Facility.

**Contact:** Rhonda R. Lake, Facilities & Real Property Superintendent, (916) 808-7902

**Presenter:** Rhonda R. Lake, Facilities & Real Property Superintendent

**Department:** General Services

**Division:** Facilities and Real Property Management

**Organization No:** 13001551

## **Description/Analysis**

**Issue:** The primary use and purpose of the City Hall Facility is to conduct city business. The City Hall Facility is the real property and structures bounded by the public sidewalks adjacent to H and I Streets and 9<sup>th</sup> and 10<sup>th</sup> Streets, and it includes Historic City Hall, New City Hall, and Sa'Cumn'e Plaza. Because the City Hall Facility represents a significant capital investment that supports the provision of citywide services, activities, and programs, it is important to ensure a suitable working environment for city employees, to ensure access to the City Hall Facility, to preserve and protect the city's financial investment, and to prevent incompatible uses.

The City Hall Facility also serves as the seat of city government. Sa'Cumn'e Plaza is often the site of public protests and demonstrations, not just on city issues but also on regional, state, and national affairs. The proposed ordinance is intended to reconcile potentially competing uses by codifying the policies and procedures for the use and regulation of the City Hall Facility. In addition, the proposed ordinance will establish a process by which Sa'Cumn'e Plaza may be reserved for exclusive use, if desired.

**Policy Considerations:** The primary use and purpose of the City Hall Facility is to conduct city business. It also serves as the seat of city government.

The proposed ordinance establishes policies and procedures for the use and regulation of the City Hall Facility. It thus implements the City Council's intent—

- (1) to allow members of the public to use the exterior of the City Hall Facility for exercising their constitutional rights of free speech and assembly subject to reasonable time, place, and manner restrictions;
- (2) to ensure a working environment for city employees that is free from unreasonable distraction and disruption;
- (3) to ensure access to, and unobstructed use of the City Hall Facility;
- (4) to preserve and protect the City Hall Facility;
- (5) to prevent dangerous, unlawful, or incompatible uses of the City Hall Facility;
- (6) to ensure financial accountability for damage to the City Hall Facility; and
- (7) to coordinate multiple uses of Sa'Cumn'e Plaza so as to minimize the impact on city business and city employees.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** This report concerns general policy and procedure. Section 15378(b)(2) of the CEQA Guidelines states that continuing administrative or maintenance activities, such as general policy and procedure making not related to a project subject to CEQA review, are not considered to be "projects" and are therefore exempt from CEQA.

**Sustainability Considerations:** None.

**Committee/Commission Action:** None.

**Rationale for Recommendation:** The proposed ordinance is intended to codify the policies and procedures for the use and regulation of the City Hall Facility. This will support the primary use and purpose of the City Hall Facility as a place to conduct City business. Sa' Cumn'e Plaza will be available for exclusive use, if desired, through an event permitting process.

**Financial Considerations:** This report does not result in any financial impact to the City.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of this report.

Respectfully Submitted by:   
Rhonda Lake, Superintendent Facilities & Real Property  
Department of General Services

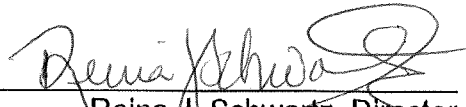
Approved by:   
Reina J. Schwartz, Director  
Department of General Services

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## **ORDINANCE NO. 2012-**

Adopted by the Sacramento City Council

Date Adopted

### **AN ORDINANCE ADDING CHAPTER 12.74 TO THE SACRAMENTO CITY CODE, RELATING TO THE USE OF THE CITY HALL FACILITY**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

#### **SECTION 1**

Chapter 12.74 is added to the Sacramento City Code to read as follows:

#### **Chapter 12.74 USE OF THE CITY HALL FACILITY**

##### **Article I. General Provisions**

##### **12.74.010 Legislative findings.**

- A. The primary use and purpose of the City Hall Facility is to conduct city business. The mayor and city council have their offices there, as do the charter officers and their staffs and several city departments that provide services citywide. In addition, the mayor and city council, the planning and design commission, and other city commissions, boards, and committees hold public meetings there. And occasionally the city uses the Plaza for its own programs and activities.
- B. Because the City Hall Facility serves as the seat of city government, the Plaza is often the site of public protests and demonstrations, not just on city issues but also on regional, state, and national affairs.
- C. This chapter is enacted to reconcile these potentially competing uses. It is intended to allow members of the public to use the exterior of the City Hall Facility for exercising their constitutional rights of free speech and assembly subject to reasonable time, place, and manner restrictions. At the same time, it is also intended to ensure a working environment for city employees that is free from unreasonable distraction and disruption; to ensure access to, and unobstructed use of, the City Hall Facility; to preserve and protect the City Hall Facility; to prevent dangerous, unlawful, or incompatible uses of the City Hall Facility; to ensure financial accountability for damage to the City Hall Facility; and to coordinate multiple uses of the Plaza so as to minimize the impact on city business and city employees.

## **12.74.020 Definitions.**

The following definitions apply in this chapter:

“Amplified Sound” means speech, music, or other sound projected or transmitted by amplifiers, loud speakers, microphones, or similar devices or combinations of devices that are powered by electricity or combustible fuel and are designed to increase the volume, range, distance, or intensity of speech, music, or other sound.

“Applicant” means a person or organization that applies for a Plaza Event Permit.

“City Hall Facility” means the real property and structures bounded by the public sidewalks adjacent to H and I Streets and 9<sup>th</sup> and 10<sup>th</sup> Streets in the City of Sacramento, and it includes Historic City Hall, New City Hall, Sa’Cumn’e Plaza, all walkways, and all landscaped areas.

“City Manager” means the City Manager or his or her designee.

“Include” and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.”

“Peace Officer” means a peace officer as defined under section 830 and following of the California Penal Code.

“Permittee” means a person who has been granted a Plaza Event Permit.

“Plaza” means the area of the City Hall Facility between Historic City Hall and New City Hall that is known as Sa’Cumn’e Plaza and is bounded by the public sidewalks adjacent to 9th Street on the west and 10th Street on the east, including the arcade on the south side of New City Hall but excluding the landscaped areas, as depicted in the diagram labeled Exhibit 1 set out at the end of this chapter.

“Plaza Event” means a gathering, celebration, or other event in the Plaza that is held in accordance with a Plaza Event Permit.

“Plaza Event Permit” means a permit that is issued under this chapter and allows the Permittee to conduct a Plaza Event.

## **Article II. Use of the City Hall Facility Generally**

### **12.74.030 The public’s right to use the City Hall Facility; restrictions.**

All persons are entitled to use the exterior of the City Hall Facility for exercising their constitutional rights of free speech and assembly, without paying fees, obtaining permits, or providing advance notice, subject to the following restrictions:

- A. Restrictions to ensure a suitable working environment for city employees, ensure access to the City Hall Facility, and prevent incompatible use. A person shall not do any of the following at the City Hall Facility:
1. Obstruct access to the entrances to, and exits from, city offices, or maintain less than an eight-foot-wide open space surrounding each entrance and exit.
  2. Unless authorized by a Plaza Event Permit, use Amplified Sound or any drum, horn, cowbell, whistle, rattle, clapper, or other noisemaker between 7:00 a.m. and 5:00 p.m. Monday through Friday
  3. Unless authorized by a Plaza Event Permit, erect, install, or place any sign, display, or structure, temporary or otherwise, including tables and chairs.
  4. Leave personal property unattended other than bicycles parked at city-provided bicycle racks.
  5. Be present at any time between 11:00 p.m. and 7:00 a.m. the following day, unless attending a city hearing or meeting.
  6. Unless authorized by a Plaza Event Permit, sell merchandise or solicit employment, business, or contributions of money or property.
  7. Unless authorized by a Plaza Event Permit, cook, sell, or distribute any food or beverage (other than water) or use any heat source or flame.
  8. Use skates, a skateboard, a bicycle, or similar device.
  9. Bathe or sponge bathe, or wash clothes, dishes, or other items.
  10. Unless authorized by a Plaza Event Permit, bring or keep any animal other than service animals and service animals in training.
  11. Bring or keep any fireworks, confetti, smoke- or fog-generating devices, or dangerous or deadly weapons as defined in the California Penal Code other than a weapon on the person of a Peace Officer.
  12. Engage in any behavior or activity that violates the City Code or state law.
- B. Restrictions to preserve and protect the City Hall Facility. A person shall not do any of the following at the City Hall Facility:

1. Harm or destroy any landscaping or vegetation, including trees, shrubs, bushes, flowers, and grass.
2. Stand or sit on or in, or otherwise use, any water feature, statue, sculpture, or architectural or design feature in a manner inconsistent with its intended use.
3. Dispose of trash or garbage in any location other than in receptacles provided for that purpose.
4. Use on any surface, including trees, any type of paint, chalk, stickers, nails, fasteners, glue, or adhesive.

C. Restrictions to coordinate multiple uses.

1. A person shall not knowingly join or participate in a Plaza Event conducted under any Plaza Event Permit (a) in violation of the permit, (b) without the Permittee's express consent and over the Permittee's express objection, or (c) in any manner that interferes with the progress or orderly conduct of the Plaza Event.
2. A person or group that desires to have exclusive use of the Plaza or any portion of it for conducting a gathering, celebration, or other event must obtain a Plaza Event Permit.
3. City programs and activities in the Plaza have priority over all other uses.

**12.74.040 Violations.**

- A. In addition to any other remedy allowed by law, any person who violates this chapter is subject to criminal sanctions, civil actions, and administrative penalties under chapter 1.28.
- B. Violations of this chapter are a public nuisance.
- C. Any person who violates this chapter is liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues.
- D. Any person who violates this chapter is guilty of a misdemeanor.
- E. The remedies prescribed in this chapter are cumulative, and the election of one or more remedies will not bar the city from pursuing any other remedy for the purpose of enforcing this chapter.

## **Article III. Use of the Plaza**

### **12.74.050 Plaza Event Permits.**

- A. The Plaza is available Monday through Friday for Plaza Events held in accordance with Plaza Event Permits. The time, place, and manner of Plaza Events must not interfere unreasonably with the conduct of city business. In addition, city business, programs, and activities have priority use of the Plaza.
- B. The Plaza may be reserved for a Plaza Event by obtaining a Plaza Event Permit. To obtain a Plaza Event Permit, an Applicant must complete a form provided by the City Manager.
- C. An application for a Plaza Event Permit must be accompanied by a non-refundable application fee in an amount established by resolution of the city council to defray the costs of reviewing the application and processing the permit. In addition, as a condition for issuance of a Plaza Event Permit, the Applicant must submit the following fees in the amounts established by resolution of the city council:
  - 1. A fee for city staff costs to monitor the Permittee's compliance with the Plaza Event Permit, in an amount the City Manager determines to be required for the Plaza Event.
  - 2. A fee for utility costs and for police, fire-prevention, and solid-waste services, in an amount the City Manager determines to be required for the Plaza Event. The City Manager may not include in the fee the cost of police officers who are present to protect event attendees from persons who disagree with the expressive content of the event or to provide general law enforcement in the vicinity of the event.
  - 3. A deposit for damage to the City Hall Facility or other city property that may be caused by the Plaza Event, in an amount the City Manager determines to be required for the Plaza Event given the estimated number of event attendees and the equipment to be used in the event.
- D. A Plaza Event Permit is not required for a protest, demonstration, or assembly that is conducted in compliance with section 12.74.030.

### **12.74.060 Plaza Event Permit cancellation fees.**

The fees and deposit required under subsection C of section 12.74.050 are not refundable if a Permittee cancels a Plaza Event unless one of the following applies:

- A. If, at least 15 days before the scheduled date of the Plaza Event, the Permittee submits to the City Manager a written notice that the Plaza Event is cancelled,



then the Permittee is entitled to be reimbursed only for the deposit required under subsection C.3 of section 12.74.050 and for those fees required under subsections C.1 and C.2 of section 12.74.050 that are not needed to offset costs the city has already incurred as of the date the notice is received.

- B. If, at least three days before the scheduled date of the Plaza Event, the Permittee submits to the City Manager a written notice that the Plaza Event is cancelled, and if the Permittee reschedules the canceled Plaza Event for a date that is no more than six months after the scheduled date of the canceled Plaza Event, then the fees and deposit paid for the cancelled Plaza Event will be applied against the fees and deposit required for the Plaza Event Permit issued for the rescheduled Plaza Event.

### **12.74.070 Insurance and indemnity requirements for Plaza Events.**

- A. As a condition for issuance of a Plaza Event Permit, an Applicant must submit evidence of general-liability-insurance coverage, which must be maintained at no cost to the city, and which must satisfy all of the following:
  - 1. The coverage must be at least as broad as ISO CGL Form 00 01 and must be provided on an occurrence basis for bodily injury (including death) of one or more persons, property damage, and personal injury.
  - 2. The policy limit for each occurrence must be in an amount the city's risk manager determines to be appropriate for the risks inherent in the Plaza Event.
  - 3. The policy must cover all losses and damages specified in subsection C of this section.
  - 4. The policy must be endorsed to provide that the city and its officers, employees, and agents are named as additional insureds.
  - 5. The policy must be endorsed to stipulate that it will operate as primary insurance and that no other insurance covering the city or any other named insured will be called on to contribute to a covered loss.
- B. The insurance coverage required by this section must be in full force and effect at all times during the Plaza Event.
- C. By applying for and accepting a Plaza Event Permit, an Applicant agrees to indemnify, defend, protect, and hold harmless the city and the city's officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise in any way from the Plaza Event or the Plaza Event Permit and are caused in any way by the acts or omissions of

the Applicant; the Applicant's officers, employees, or agents; or any other person or organization that co-sponsors the Plaza Event, including the officers, employees, or agents of that person or organization.

#### **12.74.080 City Manager action on Plaza Event Permit applications.**

- A. The City Manager shall act on all complete applications as follows:
1. The City Manager shall issue Plaza Event Permits on a first-come, first-served basis, subject to the Applicant's compliance with the permit-application requirements and other provisions of this chapter, and based on the understanding that the city may cancel the Plaza Event if the Plaza is needed for city business. The city is not liable for any damages a Permittee or anyone else may incur if the city cancels a Plaza Permit.
  2. If the City Manager receives an application at least 60 days before the proposed date of the Plaza Event, then the City Manager shall act on the application and notify the Applicant of that action, in writing, not later than 45 days after the application is received.
  3. If the City Manager receives an application less than 60 days before the proposed date of the Plaza Event, then the City Manager shall act on the application and notify the Applicant of that action, in writing, as soon as reasonably practicable, but the application will be deemed denied if the City Manager does not act by 5:00 p.m. on the third day before the proposed date of the Plaza Event.
  4. The City Manager may impose any conditions on the approval of the application for a Plaza Event Permit that he or she determines to be reasonably necessary to protect the public health, safety, or welfare, subject to the following: the City Manager shall not deny or condition a Plaza Event Permit based on the identity of the Applicant, the content of the Applicant's speech, the message conveyed by the Plaza Event, or any assumption or prediction about public hostility that may be aroused by the Applicant's speech or the message conveyed by the Plaza Event.
- B. After the City Manager issues a Plaza Event Permit, any changes in the related application may require modification of permit conditions or revocation of the permit.
- C. An application for a Plaza Event Permit may not be submitted earlier than six months before the proposed date of the Plaza Event.

### **12.74.090 Denial or revocation of a Plaza Event Permit.**

The City Manager may deny an application for a Plaza Event Permit or revoke a Plaza Event Permit for any of the following reasons:

- A. The Applicant or Permittee failed to comply with this chapter or the City Manager's regulations implementing this chapter.
- B. The Permittee failed to carry out the Plaza Event in accordance with the permit application.
- C. The Permittee failed to comply with the conditions of the Plaza Event Permit, including failure to pay applicable fees or to provide indemnification, an insurance certificate, or a security deposit as required; failure to comply with any other permit requirements or conditions; or failure to comply with licensing requirements for the activities to be conducted as part of the Plaza Event.
- D. The Applicant or Permittee made a false statement or misrepresented any material fact in any application for a Plaza Permit Event, including the current application.
- E. The Applicant or Permittee failed to comply with a Plaza Event Permit issued within the three years before the date of the current permit application.
- F. The Applicant or Permittee has damaged city property and has not paid the city in full for the damage.
- G. The proposed use is prohibited by law.
- H. The Plaza or any substantial portion of the Plaza is not available because of fire, casualty, acts of God, maintenance activity, or public emergency.
- I. The proposed Plaza Event, as designed, will unreasonably impede, obstruct, impair, or interfere with public access to City Hall or Historic City Hall, and the Applicant or Permittee will not agree to redesign the proposed Plaza Event so as to ensure public access.
- J. After issuing the Plaza Event Permit, the City Manager discovers that the Plaza Event will conflict with a city program or activity or a previously scheduled Plaza Event.

### **12.74.100 Appeal of action on permit.**

An Applicant or Permittee may appeal to the city council, in accordance with chapter 1.24, the City Manager's action on an application for a Plaza Event Permit or the City Manager's revocation of a Plaza Event Permit, as follows: the appeal must be brought

in accordance with chapter 1.24, and the Applicant or Permittee must file a notice of appeal with the city clerk, accompanied by an appeal fee in an amount set by resolution of the city council, within 10 days after (1) the date the Applicant or Permittee receives written notice of the action or revocation; or (2) the date the application is deemed denied under subsection A.3 of section 12.74.080.

**12.74.110 Regulations.**

The City Manager or his or her designee may adopt administrative regulations and application forms that are consistent with this chapter and further its purpose.

