

**ORDINANCE NO. 526**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCALON,  
CALIFORNIA REPEALING CHAPTER 12.16 OF AND ADDING CHAPTER 9.36 TO THE  
ESCALON MUNICIPAL CODE RELATING TO SPECIAL EVENTS**

**WHEREAS**, the City Council of the City of Escalon desires to allow festivals, concerts, sporting events, parades, and other special events within the City limits in order to promote civic and cultural pride and community involvement; and

**WHEREAS**, the use of City streets and other City-owned or controlled property by large groups causes wear and tear on such property and requires City staff time to provide coordination; and

**WHEREAS**, such special events have a tendency of exposing neighboring residents to excessive noise and traffic; and

**WHEREAS**, the City currently only regulates certain outdoor festivals; and

**WHEREAS**, the City Council wishes to ensure that all special events are conducted in a safe and orderly fashion to benefit all those who live in and visit the City of Escalon by requiring that such events follow uniform licensing procedures; and

**WHEREAS**, uniform procedures promote and protect the rights of those organizing special events, those participating in them and those living and working nearby; and

**WHEREAS**, the City is aware that a number of persons and groups will be conducting special events within the City in the near future; and

**WHEREAS**, to ensure that the public, event organizers and attendees are protected and these upcoming events are properly regulated, the City Council desires that this ordinance take effect immediately; and

**WHEREAS**, Government Code section 36937 authorizes the City Council to adopt urgency ordinances necessary to promote the immediate preservation of the public peace, health and safety; and

**WHEREAS**, the City Council finds adopting this Urgency Ordinance is necessary to protect the public, event organizers and attendees, properly regulate upcoming special events, and otherwise promote the immediate preservation of the public peace, health and safety.

**THE CITY COUNCIL OF THE CITY OF ESCALON, CALIFORNIA, DOES ORDAIN  
AS FOLLOWS:**

**Section 1. Urgency Findings.** The City Council hereby adopts the foregoing recitals as its findings that the adoption of this Urgency Ordinance is necessary. The City Council hereby adopts, by no less than a four-fifths vote, this Urgency Ordinance based upon the foregoing findings and pursuant to Government Code Section 36937.

**Section 2.** A new Chapter 9.36 is hereby added to the Escalon Municipal Code to read as follows:

**Chapter 9.36**

**LICENSING AND REGULATIONS OF SPECIAL EVENTS**

**Sections:**

- 9.36.010 Definitions**
- 9.36.020 Prohibition.**
- 9.36.030 Application for License and Fee.**
- 9.36.040 Forwarding of Application to Special Event Review Committee.**
- 9.36.050 Review of Application and Action by City Manager.**
- 9.36.060 Standards and Conditions.**
- 9.36.070 Appeal to City Council.**
- 9.36.080 Indemnification and Insurance.**
- 9.36.090 Public Services Fees.**
- 9.36.100 Suspension of Operation.**
- 9.36.110 Number of Participants.**
- 9.36.120 Advertising Where Admission is to be By Ticket.**
- 9.36.130 License Not Transferable.**
- 9.36.140 Effect of Zoning and Other Provisions.**
- 9.36.150 Penalty.**
- 9.36.160 Administrative Guidelines.**

**9.36.010 Definitions.**

A. "Expressive Activity" means conduct protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, which is the principal purpose of the event.

B. "Public Assembly" means any group of seventy-five (75) or more persons participating in an organized assemblage having a common purpose on or within a city street, city park, parking facility, sidewalk, or other public property or right-of-way.

C. "Special Event" means:

1. Any temporary event not exceeding seven (7) days, whether indoors or outdoors, involving one hundred (100) or more persons, which is inconsistent with the permanent use to which the property may legally be put, or the occupancy levels permitted on property;
2. Any public assembly as defined in this section; or
3. Any organized event, regardless of the number of persons involved, requiring full or partial street closure, which occurs on a city street, sidewalk, alley, or other public right-of-way, and/or which is likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic.

**9.36.020 Prohibition.**

It shall be unlawful for any person, group or organization to conduct any activity related to a special event as defined in section 9.36.010(C) of this chapter without first procuring a special event license through the application process defined in section 9.36.030 of this chapter. However, provided an applicant complies with section 9.36.030 of this chapter, a special event license shall not be required for the following:

- A. Governmental agencies acting within the scope of their authorized function;
- B. Events which take place on streets, sidewalks, or other public rights-of-way owned or controlled by the city, including, but not limited to, lawful picketing, provided that all applicable traffic regulations, laws or controls are complied with;
- C. Funeral processions by a licensed mortuary or funeral home;
- D. Events which take place entirely on private property and that meet all of the following requirements:
  - 1. Do not involve the use of public property or facilities or have a substantial impact on traffic, public property or facilities in a way that may require the provision of city public services in response; and
  - 2. Do not create noise in excess of the standards set forth in chapter 8.16 of this code; and
  - 3. Do not involve the use of any pyrotechnic device as defined in the California Health and Safety Code; and
  - 4. Do not involve the construction or installation of any temporary or permanent tents, canopies or other structures, if the construction or installation requires a permit from the city or other local agency; and
  - 5. Do not involve the use of any exotic or non-domesticated animals, or mechanical amusement rides.
- E. Spontaneous parades, assemblies and demonstrations involving expressive activity and which are occasioned by news or affairs coming into public knowledge within five (5) days of such parade, assembly or demonstration, provided that the organizers thereof give written notice to the city manager at least twenty four (24) hours prior to such parade or assembly. Such written notice shall contain all of the following information:

1. The name, address and telephone number of the person or persons seeking to conduct the parade or assembly. This person or these persons shall be considered a licensee for the purposes of this section;
2. The name, address and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the parade or assembly is proposed to be conducted;
3. The name, address and telephone number of the person who will chair the parade or assembly and who will be responsible for its conduct;
4. The location and date of the proposed parade or assembly, including the assembly area, disbanding area, and the route to be traveled;
5. An estimate of the approximate number of persons who will be participating in the parade or assembly and an estimate of the approximate number of persons who will be observing the parade or assembly;
6. The time at which the parade or assembly will start and conclude; and
7. The type of security or other arrangements that will be provided to assure that participants are properly directed.

**9.36.030 Application for License and Fee.**

A. Within the applicable time period prescribed pursuant to section 9.36.160, any person, group or organization wishing to conduct a special event shall complete and file with the city manager a preliminary determination form. The form shall contain all information necessary for the city manager to determine whether or not the proposed event requires a special event license as set forth in section 9.36.020. Notwithstanding the foregoing, events exempt from the special event license requirement pursuant to subsections 9.36.020(B) and 9.36.020(E) shall not be required to submit a preliminary determination form provided event applicants otherwise comply with section 9.36.020 and all other applicable laws and regulations. Upon receiving and reviewing a preliminary determination form, the city manager shall notify the applicant whether or not a special event license will be required. No fee shall be imposed for submitting a preliminary determination form.

B. Application for a license to conduct a special event shall be made in writing to and on forms prepared by the city manager. The forms shall include all information reasonably necessary to allow the city to evaluate the proposed event under the provisions of this chapter. The appropriate application shall be accompanied by a nonrefundable application fee in an amount to be set by resolution of the city council.

**9.36.040 Forwarding of Application to the Special Event Review Committee.**

Upon receipt of a complete application and the application fee, the city manager shall promptly forward the application to the special event review committee consisting of the chief of police, director of public works and the fire chief of the Escalon Fire Protection District who shall investigate the matter and report to the city manager with appropriate recommendations concerning the proposed event.

**9.36.050 Review of Application and Action by City Manager.**

A. The city manager shall review recommendations of the special event review committee and he or she shall either:

1. Authorize the issuance of the license in accordance with the application, including imposing conditions on the event pursuant to section 9.36.060; or
2. Deny the issuance of the license;

B. The city manager shall promptly give written notice of his or her decision to the applicant by mailing such notice to the mailing address submitted on the application. The city manager shall approve the application unless he or she determines that one of the grounds for denying an application identified below exists. If he or she denies the application, he or she shall specify in the notice the reasons for such denial.

1. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;
2. The application is incomplete or the applicant failed to complete the application after having been notified of the additional information or documents required;
3. The event or activity is proposed to be located, or is located, in or upon a premises, building or structure, which is hazardous to the health or safety of the employees or patrons of the premises, business, activity, or event, or the general public, under the standards established by the Uniform Building or Fire Codes, or other applicable codes, as set forth in title 15 of this code;
4. The event or activity is in conflict with other applicable provisions of any federal, state and/or local laws;

5. The event will require the diversion of public safety or other city employees from their normal duties, so as to unreasonably reduce adequate levels of service or municipal functions to any other portion of the city;
6. The concentration of persons, animals or vehicles will unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles on the streets;
7. The event or activity will take place in an area of the city, or on any public right-of-way scheduled for maintenance, construction or repair prior to the submission of the application for the event and either (i) the conduct of the event would interfere with such maintenance, construction or repair; or (ii) the maintenance, construction or repair would represent a threat to the health or safety of the participants in the event;
8. The ability of persons to enter and exit residential or business properties impacted by the event will be unreasonably impaired considering factors such as the duration, size and scope of the event; or
9. The applicant has violated significant condition(s) of a previous license issued for the same or similar event within the prior thirty-six (36) months. The city shall notify the applicant in writing of any such violations within sixty (60) days of the violation.

**9.36.060 Standards and Conditions.**

The city manager may condition the issuance of a license by imposing reasonable restrictions on the time, place and manner of conducting the event as are necessary or appropriate to protect persons and property, and to control traffic, provided that such restrictions shall not unreasonably interfere with the right of free speech. Such conditions may include, but are not limited to, the following:

- A. Alteration of the staffing for, or the date, time, route or location of the event;
- B. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street;
- C. Requirements for provision of first aid and sanitary facilities, including the presence of emergency medical services personnel;
- D. Requirements for use of event monitors and providing notice of license conditions to participants;
- E. Approval of any proposed private security forces;

- F. Restrictions on the number and type of participants, vehicles, animals or structures at the event;
- G. Compliance with animal protection ordinances and laws;
- H. Requirements for use and provision of garbage containers, cleanup and restoration of city property;
- I. Restrictions on the time and use of amplified sound;
- J. License applications for block parties may be conditioned on notice and approval by at least fifty percent of the residents on the affected street(s);
- K. Compliance with any relevant ordinance or law, including obtaining any legally required permit or license;
- L. Adequate proof of payment of the public service fees pursuant to section 9.36.090 of this chapter; and

**9.36.070 Appeal to City Council.**

Any person aggrieved by the issuance, conditional issuance, revocation or denial of a license pursuant to this chapter may appeal such decision by filing a written notice of such appeal with the city clerk within five (5) working days of the decision of the city manager giving rise to said appeal. Such appeal shall set forth the specific facts upon which the appeal is being made. The city council shall hear such appeal no later than fourteen (14) days following its filing at a regular meeting, if scheduled, or a special meeting, if necessary. The applicant, by written request, may waive the time limits for the hearing on appeal to the city council, but may not waive the time within which an appeal may be filed.

**9.36.080 Indemnification and Insurance.**

A. The city manager shall require as a condition of the issuance of a license that the applicant shall obtain, furnish proof of, and maintain, a policy of insurance issued by an insurance company authorized to do business in the State of California. The insurance policy shall be endorsed to name the city and its elected and appointed boards, officers, agents, and employees as an additional insured, and shall provide that any other insurance maintained by the city shall be in excess of, and not contributing to, the insurance coverage provided to the city under the applicant's policy. The minimum limits of liability shall conform to a schedule which shall be adopted by a separate resolution of the city council. For special events primarily involving expressive activity, the city manager shall waive this requirement if the applicant agrees to indemnify the city as provided for in subsection (B) of this section.

B. The applicant shall also be required to sign an indemnity agreement in a form approved by the city attorney, which shall expressly provide that the applicant agrees to defend, protect, indemnify and hold the city, its officers, employees and agents free and harmless from and against any and all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged willful or negligent acts or omissions of applicant, its officers, agents or employees, in connection with the licensed event or activity.

**9.36.090 Public Services Fees.**

A. Upon approval of an application for a license, the city manager shall provide the applicant with a statement of the estimated cost the city will incur in connection with the special event, including, but not limited to, costs associated with traffic and/or pedestrian control, water safety, the closure of streets or intersections, the diverting of traffic, the salaries of city personnel involved in administration or coordination of city services for the event, the cost to the city to provide support personnel, equipment, materials and supplies and related city costs, such as fringe benefits or employee overtime. The licensee shall bear the cost of these services and shall remit payment to the city no later than fifteen (15) calendar days before the special event. The costs imposed pursuant to this section shall not include costs incurred by the city to police those not participating in the special event.

B. The city council shall establish the applicable public service fees by resolution. The amount of such fees shall be based on the city's actual cost of providing the required number of police and other city employees necessary to ensure the safety of both the participants and the community.

C. If the actual cost of public services for the event is less than the estimated cost, the city will promptly refund the difference to the licensee. If the actual cost for public services is more than the estimated cost, the difference shall become due and payable to the city upon the licensee's receipt of a statement of the cost.

D. Any indigent natural person, who cannot apply for a license because of an inability to pay the required public service fees as required by this section due to such indigence shall not be required to pay such fees. A written request for indigent status shall be made at the time of submission of the license application and shall be accompanied by such relevant information and documentation as may, in the opinion of the city manager, be reasonably necessary to verify such status. As used in this section, "indigent natural person" shall mean any person eligible for relief and support in the County of San Joaquin as an indigent person under section 17000 et seq. of the California Welfare and Institutions Code, or as those sections may be amended from time to time.



**9.36.100 Suspension of Operation**

The chief of police may suspend operation and close any special event prior to the expiration of the license granted under the provisions of this chapter in the event of the occurrence of a riot, major disorder, or serious breach of the peace when, in his or her opinion, it becomes necessary to prevent injury to person or persons and/or damage of property.

**9.36.110 Number of Participants.**

If the city manager shall, as a condition of issuance of the license, impose a limit on the number of persons to be admitted to the special event and/or require that only holders of tickets shall be admitted to the premises on which the event to be held, it shall be unlawful for the licensee, or any agent or employees of the licensee:

- A. To allow, permit, or suffer the entrance to the premises in which the special event is held, of any person who does not possess a ticket, except a peace officer or other public officer in the performance of his or her duties;
- B. To sell, give or distribute a greater number of tickets than the number authorized by the city manager; or
- C. To allow, permit, or suffer the admission of any person to a special event if such admission would result in a greater number of persons present than authorized by the city manager.

**9.36.120 Advertising Where Admission is to be By Ticket.**

If the city manager shall require that admission to the special event shall be by ticket only, then it shall be unlawful for any person who advertises such event to neglect, refuse, or fail to cause the advertising to state that admission shall be by ticket only, or to make any statement which might imply any conclusion to the contrary.

**9.36.130 License Not Transferable.**

No license granted under the provisions of this chapter shall be transferable to another licensee or removable to another location.

**9.36.140 Effect of Zoning and Other Provisions.**

The use of land for a special event shall not be deemed to be in violation of any provisions of this code restricting the use of land during such time as a license granted pursuant to this chapter shall be in effect. Compliance with this chapter shall not excuse compliance with any other provision of this code or other applicable law.

**9.36.150 Penalty.**

Any person violating any provision of this chapter shall be guilty of an infraction.

**9.36.160 Administrative Guidelines.**

The city manager may adopt and modify administrative guidelines to assist the city in administering this chapter. In addition, the city manager shall adopt administrative guidelines governing the following:

A. The deadline for submitting a preliminary determination form prior to a proposed special event. This deadline shall not exceed fourteen (14) days for special events involving expressive activity.

B. The timeframe and deadline for the city manager to review a preliminary determination form to determine whether or not a proposed special event will require a special event license.

C. The timeframe and deadline for the city to review a special event application and for the city manager to decide whether or not to issue a special event license.

All administrative guidelines adopted pursuant to this section shall be in writing. The city manager shall include all applicable deadlines on the preliminary determination form and special event license application.

**Section 3. Repeal.** Chapter 12.16 of the Escalon Municipal Code is hereby repealed in its entirety.

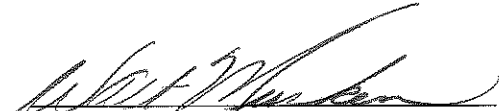
**Section 4. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**Section 5. Effective Date.** This Urgency Ordinance shall take immediate effect upon its passage by 4/5 vote of the City Council.

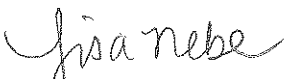
**Section 6. Publication.** The City Manager shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once in a newspaper of general circulation printed and published within the City of Escalon.

The foregoing ordinance was adopted at a regular meeting of the City Council of the City of Escalon held on September 20, 2010 by the following vote:

**AYES:** Councilmembers Alves, Fox, Haskin, Laugero and Mayor Murken  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
WALT MURKEN, Mayor  
City of Escalon, California

ATTEST:

  
LISA NEBE, City Clerk  
City of Escalon, California