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## Report to Mayor and City Council

Tuesday, September 07, 2021

Discussion

### SUBJECT:

**CONSIDER INTRODUCTION OF ORDINANCE NO. 21-2118, ADDING CHAPTER 11 (TEMPORARY EVENTS) TO ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PERMIT PROCESS FOR TEMPORARY EVENTS (CITY COUNCIL)**

### **I. SUMMARY**

The City currently does not have a permit application process for temporary events staged by residents or guests of the City. The proposed ordinance would establish a regulatory permit requirement and related application process for such events to ensure they are conducted in a manner that does not unduly impede, obstruct, impair or interfere with the free use of public streets, sidewalks, or other public property of the City and to ensure that there is a mechanism in place to regulate competing use of public forums.

### **II. RECOMMENDATION**

1. INTRODUCE and READ by title only, and waive further reading, Ordinance No. 21-2118, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADDING CHAPTER 11(TEMPORARY EVENTS) TO ARTICLE III (PUBLIC SAFETY) OF THE CARSON MUNICIPAL CODE TO ESTABLISH A REGULATORY PERMIT PROCESS FOR TEMPORARY EVENTS."

### **III. ALTERNATIVES**

TAKE another action the City Council deems appropriate.

### **IV. BACKGROUND**

The adoption of the proposed ordinance would establish criteria for classifying temporary events and standards and conditions for approving and permitting such events.

Temporary Events are defined in the ordinance to refer to any event or activity that is temporary in nature and that (i) involves an organized formation, gathering or assemblage

of persons, animals or vehicles, or any combination thereof, on public property for a common purpose (including a parade), or (ii) is inconsistent with either the zone in which the subject property is located, the uses to which the property may legally be put, or the occupancy levels permitted thereon. "Temporary events" shall also refer to any activity that may result in the closure or obstruction of any public streets or sidewalks, or any activities that may temporarily require the installation of materials or devices using building, electrical, mechanical, plumbing, flammable or similar materials. "Temporary events" may include, but are not limited to, certain outdoor, short-term events such as parades, walkathons, marathon runs, cycling events, block parties and sporting events, or any combination thereof.

The proposed ordinance classifies temporary events under three categories:

- Major - those events that impact multiple departments within the City and have attendance or participation by 750 or more persons, or will have a substantial impact on City roadways or rights-of-way (e.g., carnivals, parades, festivals);
- Minor - those events that impact multiple City Departments and have attendance by less than 750 persons, or will have impact on City rights-of-way (e.g., 5K/10K races);
- Miscellaneous - those events which impact only one City Department and are handled solely by that Department.

Additionally, the proposed ordinance creates classifications for "expressive events" and "spontaneous expressive events," as such events are entitled to constitutional free speech protections that would not apply to other temporary events.

"Expressive Event" is defined to mean a temporary event involving a gathering of people for a common purpose to engage in "expressive activity," which is in turn defined as 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.

"Spontaneous Expressive Event" is defined as an expressive event occasioned by news or affairs coming into public knowledge within ten (10) City business days prior to the event.

When a temporary event (whether major, minor or miscellaneous) also qualifies as an expressive event or spontaneous expressive event, it would qualify for certain carveouts and exclusions from restrictions contained in the ordinance (discussed further in the "permit process" section below) that operate to prevent any potential violation of constitutional rights related to freedom of speech or expressive activity in connection with the permitting of such expressive events.

Exemptions: Expressive events would be exempt from the ordinance entirely if they will not involve than 75 people gathered, assembled or organized at any public place, property or facility, unless they will affect a public street or sidewalk in a manner that would not comply with applicable traffic regulations. Filming permitted under the City's film permit ordinance (CMC 63127.5-63127.12) would also be exempt from the proposed ordinance since the

film permit ordinance would supply the necessary regulation for such activities. Activities conducted by a governmental agency acting within the scope of its authority would also be exempt from the ordinance, as would “City-sponsored events,” defined as a temporary event for which the City Council or City Manager (as applicable) has duly and affirmatively approved City financial support, not including a waiver of a City fee.

Permit Process:

Applicants would be required to submit an application for the event and pay any appropriate application fee for processing of the application, which would be established by subsequent resolution of the City Council. The proposed ordinance specifies the information required to submit a completed application. The timing of when a completed application is required would vary depending on the classification of the event.

Applicants would also be required to: (1) sign an agreement to pay for cleanup of the event premises after the event; (2) provide event insurance naming the City as an additional insured (expressive events are exempt from this requirement provided the applicant agrees to redesign or reschedule the permitted event to respond to any specific risks, hazards and dangers to the public health and safety identified by the Administrative Authority (defined below) as being reasonably foreseeable consequences of the permitted event); (3) sign an agreement to hold the City harmless from liabilities arising from injury to persons or property caused by participants at the event (subject to specified exclusions and limitations for expressive events); and (4) pay a traffic control fee on permit issuance if and to the extent that traffic control is needed for the event, as determined by the Administrative Authority.

The “Administrative Authority” is the primary City officer in charge of application review and processing, and is specified in the proposed ordinance as the City Manager or designee (likely to ultimately be the Community Services Director), except in the case of a miscellaneous temporary event in which case it would be the applicable department director.

Upon receipt of an application, the Administrative Authority would review it for completeness and would be required to approve a completed application for permit issuance unless specified findings can be made; a few examples of such findings are (i) that the event would conflict with another temporary event previously applied for or approved, (ii) the event as proposed would disrupt or interfere with traffic, construction or maintenance work, or educational activities of a school, (iii) the concentration of persons at the event would prevent emergency access or negatively impact services of a hospital or fire station, or (iv) the application was materially false or fraudulent.

In the event such findings are made but the issues can be corrected by altering the date, time, duration, route, or location of the event, the Administrative Authority can conditionally approve the application upon the applicant's acceptance of conditions for permit issuance for the purpose of correcting the issue. Examples of conditions that may be imposed include: (i) Alteration of the date, time, route or location of the event to ensure that the event does not close more than one lane of a street to through traffic during work days; (ii) Conditions concerning the area of assembly and disbanding of parade or other events

occurring along a route to ensure that the event does not unduly interfere with pedestrian or vehicular traffic; (iii) Requirements for the use of traffic cones, delineators or barricades to provide for the safety of both participants and traffic; (iv) Requirements for the provision of first aid or sanitary facilities; and (v) Restrictions on the number and type of vehicles, animals, or structures at the event, and inspection and approval of floats, structures, and decorated vehicles for safety purposes only.

A copy of the permit issued for a temporary event would be required to be posted conspicuously on the event premises and a copy would be required to be in the possession of the responsible individual for the duration of the event.

Permits would be revocable immediately by the Administrative Authority upon a finding that (i) circumstances have changed to such a degree that one or more of the findings required for issuance of the permit pursuant to this chapter can no longer be made in the affirmative; (ii) The temporary event permit was obtained in a fraudulent manner; (iii) the applicant fails neglects or refuses to fulfill any of the conditions imposed upon the granting of the permit; or (iv) the applicant violates or attempts to violate any state law, any provision of the ordinance, or any other law, ordinance or policy of the City.

The proposed ordinance provides that decisions of the Administrative Authority regarding permit denial or revocation would be appealable to the City Council and that intentional violations, by permit applicants, of the ordinance would constitute misdemeanors punishable in accordance with CMC 1200. Events held in violation of the ordinance would also be deemed public nuisances which could be enjoined or abated by City as authorized by law and would be subject to issuance of administrative citations pursuant to CMC 1203 *et seq.*

## **V. FISCAL IMPACT**

None; permit fees will be established by resolution and will offset costs of application processing.

## **VI. EXHIBITS**

1. Ordinance No. 21-2118 (Pgs. 5-17)

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