



# AGENDA REPORT

## CITY OF SAN CLEMENTE

### CITY COUNCIL MEETING

910 Calle Negocio  
2nd Floor  
San Clemente, California  
[www.san-clemente.org](http://www.san-clemente.org)

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**Meeting Date:** November 19, 2024

Agenda Item: 10B

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**Submitted By:** Community Development

**Prepared By:** Adam Atamian, Community Development Director

**Subject:**

**INTRODUCTION (FIRST READING) OF AN ORDINANCE, AMENDING MUNICIPAL CODE SECTIONS 8.48.070, 8.48.090, 12.34.020 AND 12.34.040 RELATED TO AMPLIFIED SOUND AND SPECIAL EVENT PERMITS, AND FINDING THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**Fiscal Impact:**

If this ordinance is adopted, the use of amplified sound in public spaces will require a City-issued permit or approval. With an increase in permits issued, it is expected annual permit revenue will increase with a total uncertain. A small event in a park with amplified sound costs about \$300; however, the permit fees vary depending on multiple factors, including the size and location of a special event. Any new revenue could cover a portion of staff expenses to manage special events and respond to noise complaints.

**Summary:**

The proposed ordinance updates regulations for special events and noise in San Clemente Municipal Code (SCMC) Chapter 8.48, Noise Control, and SCMC Chapter 12.34, Special Event Permits. These changes are to improve staff's ability to manage amplified sound use in public spaces. The amendments refine a framework in the Municipal Code to protect free speech in public spaces with reasonable time, place and manner regulations of impacts, including noise, that are to protect public peace, health, and safety. If the ordinance is adopted, a Special Event Permit will be required to allow amplified sound in public spaces. The proposed ordinance also makes minor changes to clarify existing regulations.

**Background:**

The City has received numerous complaints over an extended period of time about the usage of bullhorns and other amplified sound in public spaces that raised questions about whether a permit is required to amplify sound in public spaces. On October 5, 2021, the City Council adopted Ordinance 1717 to: (1) provide a regulatory framework for permitting special events, (2) protect property owners, business owners, and the general public from negative secondary impacts that may be generated by special events, and (3) protect the rights of people to engage in expressive activities in a reasonable and minimally restrictive manner. Under this current framework, a special event permit (SEP) is required to allow special events on public property. If an event is spontaneous, expressive activities in public forums are exempt if the organizer provides essential information to the City Manager 48 hours in advance of the event. "Special events" subject to an SEP are defined in detail within Chapter 12.34. Examples of activities include organized activities less than 30 days, and at any time with 50 or more people, or 20 or more people at a small City Park. Special events also include use of City property that is

*“inconsistent with the permanent or ordinary use to which the property is dedicated or ordinarily used and results in adverse impacts to public property or the public’s free use of public property...”* This includes an activity that is *“likely to result in noise with a sustained volume of more than 65 dB (A) for more than one hour or 80 dB (A) for any duration of time.”* For more background and details on the special event definition and permit process, the October 5, 2021 City Council report packet is provided [online at this link](#).

The “noise criteria” for requiring an SEP, cited above, does not specifically mention amplified sound as a type of noise that requires a permit. Therefore, to determine if an SEP is required, staff must rely on using a noise meter in the field to confirm if amplified sound exceeds the indicated noise threshold. This does not provide a proactive, efficient, or predictable means for City staff to effectively and efficiently manage use of amplified sound in public spaces. Staff has prepared the proposed ordinance to address these limitations of the current code. The proposed code amendments are summarized below, and shown in redline within Attachment 2.

### **Amend Definition of “Special Event”**

The ordinance amends the definition of “Special Event” in Municipal Code Section 12.34.020 to include mention of amplified sound use in the noise criteria for requiring an SEP, in addition to the existing noise threshold mentioned above. This means that the use of amplified sound would be clearly included within the framework for permitting and regulating special events. By making this change, the City would have advanced notice of people wishing to use amplified sound in public spaces, assuming the code is followed. If an SEP is not obtained, Code Compliance and Park Ranger staff will have greater ability to determine if there is a code violation.

### **Add Definition of “Amplified Sound” to Special Event Permit Chapter**

The ordinance adds the definition of “amplified sound” to Chapter 12.34 for clarification to implement the SEP process. The proposed definition is for amplified sound to mean *“sound whose volume has been made louder by any electric, electronic, mechanical, or motor-powered means using equipment like speakers, sound systems, stereos, or bullhorns.”*

### **Code Clarifications**

The proposed ordinance also includes several minor code clean ups in Municipal Code Sections 8.48.070(B) and (C), 8.48.090(B), and 12.34.040 to correct references to permit types and code section numbers. For example, the special events ordinance refers to “Special Activity Permits” to allow special events on nonresidential private property. This permit no longer exists. In 2023, a streamlining ordinance consolidated several permit types so that now Temporary Use Permits are required for special activities. Additionally, the proposed amendment clarifies when the use of amplified sound is and is not allowed on private property and during “expressive activities.”

### **Council Options:**

- Introduce and conduct the first reading of Ordinance No. 1785.
- Revise, introduce and conduct the first reading of Ordinance No. 1785.
- Continue the item and direct staff to provide additional information.
- Do not introduce Ordinance No. 1785.

***Environmental Review/Analysis:***

Staff recommends the City Council find the ordinance is not subject to the California Environmental Quality Act (CEQA). The ordinance is not a “project” according to State CEQA Guidelines Section 15378, given the ordinance has no potential “for resulting in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The ordinance refines, not lessens, regulations for special events to address amplified sound use in public spaces.

***Recommended Actions:***

**Staff Recommendation**

Introduce and conduct a first reading of Ordinance No. 1785 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 8.48.070, 8.48.090, 12.34.020 AND 12.34.040, RELATING TO REQUIRING A SPECIAL EVENT PERMIT TO ALLOW AMPLIFIED SOUND IN PUBLIC SPACES AND MAKING RELATED MINOR CODE CLARIFICATIONS RELATING TO SPECIAL EVENT PERMITS AND NOISE REQUIREMENTS, AND FINDING THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

***Attachment:***

1. Ordinance No. 1785
2. Redline showing proposed Municipal Code amendments

***Notification:***

None.

ORDINANCE NO. 1785

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MUNICIPAL CODE SECTIONS 8.48.070, 8.48.090, 12.34.020 AND 12.34.040 RELATING TO REQUIRING A SPECIAL EVENT PERMIT TO ALLOW AMPLIFIED SOUND IN PUBLIC SPACES AND MAKING RELATED MINOR CODE CLARIFICATIONS RELATING TO SPECIAL EVENT PERMITS AND NOISE REQUIREMENTS, AND FINDING THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City's special events ordinance protects the public's right to engage in free speech and assembly in public spaces and protect public peace, health, and safety by reasonably regulating the time, place, and manner of special events with reasonable and minimally restrictive regulation of traffic, noise, aesthetics, and other impacts of activities, and having a streamlined permitting process for special events; and

WHEREAS, successful management of special events on public property can require the dedication of public services and resources, such as City law enforcement, staff oversight, and additional facility maintenance, which in certain circumstances are more appropriately borne by event organizers than the public at large; and

WHEREAS, successful management of special events on City property requires involvement of and coordination with City staff to determine whether the events are compatible in size and type of use with the proposed event site, considering factors such as the site's location, layout and facilities, time of day, whether adequate City services are available for the events, whether the events unduly interfere with the City's ability to provide services to the entire community, and whether impacts between competing uses of the public space can be adequately harmonized; and

WHEREAS, the Municipal Code provides a framework for permitting "special events", defined in part based on whether an activity produces noise "with a sustained volume of more than 65 dB (A) for more than one hour or 80 dB (A) for any duration of time"; and

WHEREAS, the City Council is concerned that current provisions of the San Clemente special events ordinance and noise ordinance do not provide a proactive, efficient, or predictable means for City staff to efficiently and effectively manage use of amplified sound in public spaces because staff must use noise meters at an event to verify whether activity produces noise in excess of the threshold (stated above) that is subject to a special event permit; and

WHEREAS, in response to public complaints about this issue, the City Council wishes to amend Municipal Code Section 8.48.070, 8.48.090, 12.34.020, and 12.34.040 to: 1) require approval of a Special Event Permit to allow amplified sound in public spaces, 2) clean up incorrect referenced code sections and permit types, and 3) clarify amplified sound is one of the listed “special event” activities exempt from the Noise Ordinance with a Special Event Permit or other City-issued permit; and

WHEREAS, on November 19, 2024, the City Council considered the agenda report, any written and oral testimony received from the public, and other evidence in the record for this Ordinance.

NOW, THEREFORE, the City Council of the City of San Clemente does ordain as follows:

**Section 1: Recitals.** The recitals above are each incorporated herein fully by reference and adopted as findings of the City Council.

**Section 2: CEQA Findings.** Based upon its review of the entire record as a whole, the City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA), given that the ordinance is not a “project” according to State CEQA Guidelines Section 15378, given the ordinance has no potential “for resulting in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The ordinance updates reasonable and minimally restrictive regulations for special events to address amplified sound use in public spaces.

**Section 3: Specific Noises Prohibited.** San Clemente Municipal Code Section 8.48.070 (B) and (C) are amended to read, in their entirety, as follows:

- B. Radios, phonographs, etc. on Private Property or Within Vehicles in Public.** Operating, playing or permitting the operation or playing of any radio, receiving set, television set, phonograph, drum, musical instrument, or similar device, on private property or within vehicles in public, which produces or reproduces sound:
1. In such manner as to disturb the peace, quiet and comfort of a person of normal sensitiveness.
  2. At any time with louder volume than is necessary to provide convenient hearing of the device by voluntary listeners located in the same room, vehicle or chamber as the device.
  3. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. in such a manner as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of Sections 8.48.050 and 8.48.060.
- C. Loudspeakers, amplifiers in Public.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device, outside of

a vehicle in public, for the producing or reproducing of sound which is cast upon the public streets for any purpose, except as permitted in Section 17.24.055, Commercial Amplified Sound, or conducted pursuant to a Special Event Permit, Temporary Use Permit, or other City-issued approval.

**Section 4: Noise Control, Exemptions from Chapter.** San Clemente Municipal Code Section 8.48.090(B) is amended to read, in its entirety, as follows:

- B. Any events (including outdoor gatherings, public dances, shows, amplified sound use, sporting and entertainment events) conducted pursuant to a Special Event Permit, Temporary Use Permit, or other City-issued approval.

**Section 5: Special Events Permits, Definitions.** The definition of "Special Event" in San Clemente Municipal Code in Section 12.34.020 is amended to read, in its entirety, as follows:

"Special event" means:

- A. Any organized activity, or persons participating in an organized activity having a common purpose on City property for a duration of less than 30 calendar days and involving at any given time during such period 50 or more persons, or involving 20 or more persons in a small City park;
- B. Any use of City property which is inconsistent with the permanent or ordinary use to which the property is dedicated or ordinarily used, and results in adverse impacts to public property, or the public's free use of public property because:
  - 1. The activity is inconsistent with the occupancy levels for the subject property;
  - 2. The activity involves the use of signs (as defined in Section 17.84.030 of this code), whether attached to public buildings, structures, ground, or landscaping, or, with the exception of activities meeting the definition of "Expressive Activity" (as defined in this chapter), handheld signs;
  - 3. The activity includes the placement of temporary structures or devices attached to public property in any manner, or includes the use of temporary structures or devices of combined total area of more than 64 square feet;
  - 4. The activity involves the use of amplified sound or is likely to result in noise with a sustained volume of more than 65 dB (A) for more than one hour or 80 dB (A) for any duration of time;
  - 5. The intensity of the activity is likely to result in permanent or temporary damage to public buildings, structures, or landscaping, including, but not limited to, litter, turf damage, or any unsanitary conditions; or

- C. Any organized activity, regardless of the number of persons involved, where goods or services are offered, with or without cost, to members of the public, whether directly associated with the event organizers or participants or not; or
- D. Any event, regardless of the number of persons involved, requiring full or partial closure of, or impedes access to, any portion of the right-of-way, which occurs on a public street, sidewalk, alley, or other public right-of-way, and/or any event occurring on any public property or public right-of-way which is likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, including access to path-of-travel or accessible facilities required by the Americans with Disabilities Act (ADA), access to public transit, public parking, public parks, public institutions, including Police and Fire stations and schools, public and private medical offices and hospitals, business access, or coastal or beach access or use.

The following list of examples is illustrative, but not determinative, of activities that may constitute "special events":

1. Motorized vehicle races or contests.
2. Non-motorized vehicle races or contests.
3. Carnivals, circuses, fairs, festivals, non-domesticated animal acts or exhibitions, and similar activities.
4. Any event with mechanical amusement rides.
5. Promotional or fundraising activities.
6. Parades.
7. Outdoor shows, movies, concerts and exhibitions.
8. Outdoor craft fairs, soapbox derbies, or other similar events.
9. Beach cleanups.
10. Surf competitions.

**Section 4: Special Events Permits, Definitions.** The definition of "Amplified Sound" in San Clemente Municipal Code in Section 12.34.020 is added to read as follows, with existing definitions reordered alphabetically:

"Amplified Sound" means sound whose volume has been made louder by any electric, electronic, mechanical, or motor-powered means using equipment like speakers, sound systems, stereos, or bullhorns.

**Section 5: Exceptions to the special event permit requirement.** San Clemente Municipal Code in Section 12.34.040 is amended to read, in its entirety, as follows:

A special event permit is not required for:

- A. Any event conducted pursuant to the following:
  - 1. A temporary use permit issued by the Community Development Department as provided in Chapters 17.16 and 17.28 of this code;
  - 2. A sidewalk vending permit issued by the Finance Department as provided in Chapter 5.50 of this code;
  - 3. A street vending permit issued by the Finance Department as provided in Chapter 5.52 of this code; or
  - 4. A filming permit issued by the Beaches, Parks & Recreation Department as provide in Chapter 5.44 of this code.
- B. Any organized activity within the scope of a conditional use permit or other land use approval given or required for that use.
- C. Any expressive activity on a City street, sidewalk, or park, that does not involve use of amplified sound, on condition that within 48 hours of such activity, or within such time is practicable for expressive activity that would otherwise constitute a spontaneous special event, any individual(s) or organization(s) leading or participating in such activity provides the City Manager with the information listed in subsections 12.34.070(A)(1), (3), (4), (5), (6), (13), and (21).
- D. Funeral processions by a licensed mortuary or funeral home.
- E. Activities conducted by a government agency acting within the scope of its authority.

**Section 6: Publication.** The City Clerk shall certify to the adoption of this ordinance by the City Council and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code Section 36933.

**Section 7: Records.** The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

**Section 8: Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.



**Section 9: Effective Date.** This Ordinance shall become effective 30 days after its adoption.

**Section 10: Certification.** The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF SAN CLEMENTE         )

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1785 having been regularly introduced at the meeting of \_\_\_\_\_, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_  
Elizabeth A. Mitchell, CITY ATTORNEY

**Specific Noises Prohibited.** San Clemente Municipal Code Sections 8.48.070 (B) and (C) are amended as follows:

- B. Radios, phonographs, etc. on Private Property or Within Vehicles in Public.** Operating, playing or permitting the operation or playing of any radio, receiving set, television set, phonograph, drum, musical instrument, or similar device, on private property or within vehicles in public, which produces or reproduces sound:
1. In such manner as to disturb the peace, quiet and comfort of a person of normal sensitiveness.
  2. At any time with louder volume than is necessary to provide convenient hearing of the device by voluntary listeners located in the same room, vehicle or chamber as the device.
  3. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. in such a manner as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of Sections 8.48.050 and 8.48.060.
- C. Loudspeakers, amplifiers in Public.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device, outside of a vehicle in public, for the producing or reproducing of sound which is cast upon the public streets for any purpose, except as permitted in Section 17.24.055, Commercial Amplified Sound, or conducted pursuant to a Special Event Permit, Temporary Use Permit, or other City-issued approval.

**Noise Control, Exemptions from Chapter.** San Clemente Municipal Code Section 8.48.090(B) is amended as follows:

- B. Any events (including outdoor gatherings, public dances, shows, amplified sound use, and sporting and entertainment events) conducted pursuant to a Special Event Permit, Temporary Use Permit, or other City-issued approval.

**Special Event Permits, Definitions.** The definition of "Special Event" in San Clemente Municipal Code in Section 12.34.020 is amended to read as follows:

"Special event" means:

- A. Any organized activity, or persons participating in an organized activity having a common purpose on City property for a duration of less than 30 calendar days and involving at any given time during such period 50 or more persons, or involving 20 or more persons in a small City park;
- B. Any use of City property which is inconsistent with the permanent or ordinary use to which the property is dedicated or ordinarily used, and results in adverse impacts to public property, or the public's free use of public property because:

1. The activity is inconsistent with the occupancy levels for the subject property;
  2. The activity involves the use of signs (as defined in Section 17.84.00 of this code), whether attached to public buildings, structures, ground, or landscaping, or, with the exception of activities meeting the definition of "Expressive Activity" (as defined in this chapter), handheld signs;
  3. The activity includes the placement of temporary structures or devices attached to public property in any manner, or includes the use of temporary structures or devices of combined total area of more than 64 square feet;
  4. The activity involves the use of amplified sound or is likely to result in noise with a sustained volume of more than 65 dB (A) for more than one hour or 80 dB (A) for any duration of time;
  5. The intensity of the activity is likely to result in permanent or temporary damage to public buildings, structures, or landscaping, including, but not limited to, litter, turf damage, or any unsanitary conditions; or
- C. Any organized activity, regardless of the number of persons involved, where goods or services are offered, with or without cost, to members of the public, whether directly associated with the event organizers or participants or not; or
- D. Any event, regardless of the number of persons involved, requiring full or partial closure of, or impedes access to, any portion of the right-of-way, which occurs on a public street, sidewalk, alley, or other public right-of-way, and/or any event occurring on any public property or public right-of-way which is likely to obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic, including access to path-of-travel or accessible facilities required by the Americans with Disabilities Act (ADA), access to public transit, public parking, public parks, public institutions, including Police and Fire stations and schools, public and private medical offices and hospitals, business access, or coastal or beach access or use.

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4. Any event with mechanical amusement rides.
5. Promotional or fundraising activities.
6. Parades.
7. Outdoor shows, movies, concerts and exhibitions.
8. Outdoor craft fairs, soapbox derbies, or other similar events.

9. Beach cleanups.
10. Surf competitions.

**Special Events Permits, Definitions.** The definition of “Amplified Sound” in San Clemente Municipal Code in Section 12.34.020 is added to read as follows, with existing definitions reordered alphabetically:

“Amplified Sound” means sound whose volume has been made louder by any electric, electronic, mechanical, or motor-powered means using equipment like speakers, sound systems, stereos, or bullhorns.

**Exceptions to the special event permit requirement.** San Clemente Municipal Code in Section 12.34.040 is amended to read as follows:

A special event permit is not required for:

- A. Any event conducted pursuant to the following:
  1. A temporary use permit issued by the Community Development Department as provided in Chapters 17.16 and 17.28 of this code;
  2. A sidewalk vending permit issued by the Finance Department as provided in Chapter 5.50 of this code;
  3. A street vending permit issued by the Finance Department as provided in Chapter 5.52 of this code; or
  4. A filming permit issued by the Beaches, Parks & Recreation Department as provide in Chapter 5.44 of this code.
- B. Any organized activity within the scope of a conditional use permit or other land use approval given or required for that use.
- C. Any expressive activity on a City street, sidewalk, or park, that does not involve the use of amplified sound, on condition that within 48 hours of such activity, or within such time is practicable for expressive activity that would otherwise constitute a spontaneous special event, any individual(s) or organization(s) leading or participating in such activity provides the City Manager with the information listed in subsections 12.34.070(A)(1),(3), (4), (5), (6), (13), and (21).
- D. Funeral processions by a licensed mortuary or funeral home.
- E. Activities conducted by a government agency acting within the scope of its authority.