



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
July 24, 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 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 as well as support the City's efforts to preserve the aesthetic appeal of the site and protect the City's capital investment, particularly in light of dwindling financial resources. Sa' Cumn'e Plaza will be available for events through an event permitting process. The City Hall Facility, as defined by the ordinance, includes the real property and structures (including New and Historic City Halls, and Sa' Cumn'e Plaza) bounded by the sidewalks of H and I and 9th and 10th Streets.

Policy Considerations: The City Hall Facility represents a significant capital investment that supports the provision of citywide services, activities and programs for public benefit. Specifically, Historic City Hall is a recognized focal point and important historic resource in the Central Business District. It is not only prudent to preserve and protect the city's financial investment and ensure financial accountability for damage to the City Hall Facility, but it is equally as important to prevent dangerous, unlawful or incompatible uses of the City Hall Facility 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 the Sa' Cumn'e Plaza may be reserved for events. This will support the coordination of multiple uses of Sa' Cumn'e Plaza while minimizing the impact on the conduct of city business and city employees.

Environmental Considerations:

California Environmental Quality Act (CEQA): This report concerns general policy and procedure items. Section 15378(b)(3) of the CEQA Guidelines states that continuing administrative or maintenance activities, which are not included in conjunction with 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, a non-public forum. This will support the primary use and purpose of the City Hall Facility as a place to conduct City business as well as support the City's efforts to preserve the aesthetic appeal of the site and protect the City's capital investment, particularly in light of dwindling financial resources. Sa' Cumn'e Plaza will be available for events 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.

The City Hall Facility, with the exception of Council Chambers and the Historic City Hall Hearing Room, is a non-public forum. Council Chambers and the Historic City Hall Hearing Room are limited purpose public forums. The primary use and purpose of the City Hall Facility is to conduct city business. To this end, this chapter is enacted to ensure a suitable working environment for city employees that is free from unreasonable distraction and disruption; ensure access to and unobstructed use of the City Hall Facility; preserve and protect the City Hall Facility; prevent dangerous, unlawful, or incompatible uses of the City Hall Facility; ensure financial accountability for damage to City Hall Facility; and coordinate multiple uses of Sa'Cumn'e Plaza while minimizing the impact on the conduct of city business and city employees.

12.74.020 Definitions.

As used in this chapter, the following definitions apply:

“Amplified sound” means speech, music, or other sound projected or transmitted by electronic equipment including amplifiers, loud speakers, microphones, or similar devices or

combinations of devices, powered by electricity or combustible fuel that are intended to increase the volume, range, distance, or intensity of speech, music, or other sound.

“City Hall Facility” means the real property and structures, including Historic City Hall, New City Hall, and Sa’Cumn’e Plaza, bounded by the public sidewalks adjacent to H and I Streets and 9th and 10th Streets in the city of Sacramento.

“City Manager” means the city manager of the city of Sacramento or his or her designee.

“Peace officer” means a peace officer as defined under Section 830 et seq. of the California Penal Code.

“Permittee” means a person who has been granted a Sa’Cumn’e Plaza event permit.

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

“Sa’Cumn’e Plaza event” means a gathering, celebration, or other event in Sa’Cumn’e Plaza.

“Sa’Cumn’e Plaza event permit” means a permit issued pursuant to this chapter, which permits the permittee to conduct a Sa’Cumn’e Plaza event.

Article II. Restrictions on Use of the City Hall Facility

12.74.030 Restrictions on Use of the City Hall Facility.

With respect to the public use of City Hall Facility, unless authorized by a Sa’Cumn’e Plaza event permit, no person shall:

A. Obstruct access to the entrances to and exits from city offices, or fail to maintain a minimum eight-foot wide open space surrounding each entrance and exit.

B. Use amplified sound, drums, horns, cowbells, whistles, rattles, clappers, noisemakers, or any sound other than the unmanipulated human voice between the hours of 7:00 a.m. and 5:30 p.m. or during noticed public meetings.

C. Erect, install, or place any sign, display or structure—temporary or otherwise—including tables and chairs.

D. Leave items of personal property unattended.

- E. Sell or distribute commercial merchandise.
- F. Solicit funds, employment, business, or contributions of money or other property.
- G. Cook, sell, or distribute any food or beverage or use any heat source or flame.
- H. Skate, skateboard, bike, or use a similar device.
- I. Bathe, sponge bathe, or wash clothes, dishes, or other items.
- J. Stand or sit on or in, or use any water feature, statue, sculpture, architectural or design feature in a manner inconsistent with its intended use.
- K. Bring or keep any animal other than service animals and service animals in training.
- L. Bring or keep any of the following items:
 - 1. Helium and helium-filled balloons;
 - 2. Fireworks;
 - 3. Mylar or plastic confetti;
 - 4. Smoke or fog generating devices;
 - 5. Any dangerous or deadly weapon as defined in the California Penal Code, except for a weapon carried by a peace officer.
- M. Dispose of trash or garbage in any location other than in receptacles provided for that purpose.
- N. Engage in any conduct that unreasonably disrupts city business.
- O. Use any type of paint, chalk, stickers, nails, fasteners, glue, or adhesive on any surface, including trees.
- P. Be present at any time between the hours of 11:00 p.m. and 7:00 a.m. the following day, unless attending a city hearing or meeting.
- Q. Knowingly join or participate in a Sa'Cumn'e Plaza event conducted under any Sa'Cumn'e Plaza event permit: (1) in violation of the terms of the permit; (2) without the consent

and over the objection of the permittee; or (3) in any manner that interferes with the progress or orderly conduct of the event.

R. Harm or destroy any landscaping or vegetation including, but not limited to, trees, shrubs, bushes, flowers, and grass.

12.74.040 Violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

D. Any person who violates a provision of this chapter is guilty of a misdemeanor.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

Article III. Sa'Cumn'e Plaza

12.74.050 Use of Sa'Cumn'e Plaza for Sa'Cumn'e Plaza events.

A. Sa'Cumn'e Plaza may be reserved for Sa'Cumn'e Plaza events held Mondays through Friday, between the hours of 11:30 a.m. and 1:30 p.m. Event set-up and break-down, including all clean-up, must be accomplished during the two hours before and one hour after the event.

B. The time, place, and manner of Sa'Cumn'e Plaza events shall not unreasonably interfere with the conduct of city business.

C. No materials related to Sa'Cumn'e Plaza events, including displays, signs, structures—portable, semi-permanent, or otherwise—including tables and chairs, shall obstruct access to the entrances or exits to City Hall or Historic City Hall.

D. The scheduling of deliveries for Sa'Cumn'e Plaza events must be approved in advance by the city manager.

E. Regarding signage, banners, and other materials related to a Sa'Cumn'e Plaza event:

1. Nothing may be painted, drawn, taped, nailed, tacked, or otherwise affixed on or to Sa'Cumn'e Plaza, City Hall, or Historic City Hall.
2. No signs or banners may be attached or installed on or to Sa'Cumn'e Plaza, City Hall, or Historic City Hall.
3. All A-frame signs must be designed and/or weighted as necessary to resist tip-over during windy conditions.
4. Signs, banners, decorations, and similar items may not be attached to trees, decorative architectural details, or works of art.

F. Groups attending Sa'Cumn'e Plaza events that include persons under the age of 18 must be supervised by adults over the age of 21. Two persons over the age of 21 must be present at all times for every 25 persons under the age of 18.

G. Immediately following a Sa'Cumn'e Plaza event, permittees must:

1. Clean the area and remove all trash, litter, equipment, signage, and any other material associated with the Sa'Cumn'e Plaza event; and
2. Prior to leaving, meet with a representative of the city to determine if additional clean-up measures or repairs are needed.

12.74.060 Sa'Cumn'e Plaza event permits.

A. Sa'Cumn'e Plaza may be reserved for a Sa'Cumn'e Plaza event by obtaining a Sa'Cumn'e Plaza event permit.

B. Official city business, programs and activities shall have priority use of Sa'Cumn'e Plaza. The city manager shall issue Sa'Cumn'e Plaza event permits on a first-come, first-served basis, subject to an applicant's compliance with the permit application requirements, other provisions of this chapter, and based on the understanding that the city reserves the right to cancel the event if Sa'Cumn'e Plaza is needed for city business. In no event shall the city have any liability for any cancellation.

C. Applicants shall designate an event representative who shall be responsible for directing, supervising, and managing the proposed Sa'Cumn'e Plaza event on their behalf. The

event representative shall be present throughout the Sa'Cumn'e Plaza event, set-up, and clean-up. The Sa'Cumn'e Plaza event shall be managed under the direct supervision of the event representative on behalf of the permittee at all times.

D. To apply for a Sa'Cumn'e Plaza event permit, the applicant must complete a city form that includes the following minimum information:

1. The name of the applicant; the name of the event representative; the mailing addresses, e-mail addresses, and telephone numbers of each; and the proposed date, time, and duration of the proposed Sa'Cumn'e Plaza event.
2. The nature of the Sa'Cumn'e Plaza event and a description of all of the equipment and planned activities, including all of the following:
 - a. The sale, distribution, donation, or collection of any merchandise, food, beverages, or services;
 - b. Cooking of food or open fires;
 - c. The approximate number of anticipated Sa'Cumn'e Plaza event participants including, without limitation, spectators, staff, volunteers, security personnel, and medical services personnel.
 - d. A site plan that identifies the location of all equipment including, without limitation, temporary structures, staging, portable tables and chairs, and waste and recycling containers, as well as pedestrian pathways.
 - e. Whether the Sa'Cumn'e Plaza event will involve the use of amplified sound or any sound other than the unmodified human voice such as drums, horns, cowbells, whistles, rattles, clappers, and noisemakers; the type, location, and direction of the amplified sound; and the type of amplified sound equipment.
 - f. Any other information the city manager determines to be reasonably necessary to ensure the activity will not result in injury to persons or property, involve violations of law, or unreasonable disruption to the conduct of city business based on the time, place, and manner of the proposed Sa'Cumn'e Plaza event.

E. Any changes to the application including, without limitation, an increase in the number of participants, equipment, or activities, shall be submitted in writing not later than 10 days before the date of the Sa'Cumn'e Plaza event.

F. The event representative shall maintain a copy of the Sa'Cumn'e Plaza event permit at all times during the event and present a copy to an authorized city official upon request.

12.74.070 Sa'Cumn'e Plaza event permit application fee.

An application for a Sa'Cumn'e Plaza event permit shall be accompanied by a non-refundable application fee in an amount established by resolution of the city council to defray the costs for review of the application and processing the permit.

12.74.080 Sa'Cumn'e Plaza event permit fees.

A. Prior to issuance of a Sa'Cumn'e Plaza event permit, the applicant shall submit the following fees in the amounts established by resolution of the city council:

1. A fee for the Sa'Cumn'e Plaza event permit for the exclusive use of the reserved portion of Sa' Cumn'e Plaza;
2. A fee for city staff costs to monitor the Sa'Cumn'e Plaza event;
3. A fee for utility costs and for police, fire prevention, and solid waste services as may be required by the Sa'Cumn'e Plaza event; and
4. A deposit for damages to Sa'Cumn'e Plaza, City Hall, Historic City Hall, and city property that may be caused by the Sa'Cumn'e Plaza event, if applicable.

12.74.090 Sa'Cumn'e Plaza event permit cancellation fees.

There shall be no refund of any portion of the Sa'Cumn'e Plaza event permit fees required by section 12.74.080 if a permittee cancels a Sa'Cumn'e Plaza event unless either:

A. The permittee submits a written notice that the Sa'Cumn'e Plaza event is to be cancelled at least 15 days prior to the scheduled date, in which case, the permittee shall be reimbursed only for those fees and costs that the city has not yet incurred, along with the deposit; or

B. The applicant submits a written notice that the Sa'Cumn'e Plaza event is to be cancelled at least three days prior to the scheduled date of the Sa'Cumn'e Plaza event, and the applicant reschedules the Sa'Cumn'e Plaza event to a later date within the next six months. In that event, the Sa'Cumn'e Plaza event permit fees will be applied to

the later event. Any subsequent change in the date of the Sa'Cumn'e Plaza event, however, shall require payment of a new permit fee.

12.74.100 Sa'Cumn'e Plaza event permit insurance and indemnity requirements.

A. Prior to issuance of a Sa'Cumn'e Plaza event permit, the applicant shall submit evidence of general liability insurance coverage, which shall be at no cost to the city and which shall comply with the all of the following:

1. Coverage must be at least as broad as ISO CGL Form 00 01 and 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 per occurrence shall be in an amount as determined by the city's risk manager;
3. The policy shall cover all losses and damages as specified in subsection C of this section;
4. The policy shall be endorsed to provide that the city, its officers, employees, and agents are named as additional insureds; and
5. The policy shall be endorsed to stipulate that the policy will operate as primary insurance and that no other insurance covering the city or other named insured will be called on to contribute to a covered loss.

B. The insurance coverage required by this section shall be in full force and effect at the time of the event.

C. The applicant shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all actions, losses, damages, liabilities, costs and expenses of every type and description, including, but not limited to, attorneys' fees, arising from, directly or indirectly, in whole or in part, the acts or omissions of the applicant, sponsoring organization, or its officers, employees, or agents in connection with the Sa'Cumn'e Plaza event or permit.

12.74.110 Sa'Cumn'e Plaza event permit—Action on application.

A. The city manager shall act on all complete applications in the following manner:

1. Applications received not less than 60 days before the proposed Sa'Cumn'e Plaza event date shall be acted upon, and written notice of the action provided to the applicant, not later than 45 days from the date of receipt of the application.
2. Applications received less than 60 days before the proposed Sa'Cumn'e Plaza event date shall be acted upon as soon as reasonably practicable, but the Sa'Cumn'e Plaza event permit shall be deemed denied if not issued at least three days prior to the proposed Sa'Cumn'e Plaza event date.
3. The city manager may impose conditions on approval of the application for a Sa'Cumn'e Plaza event permit as he or she determines to be reasonably necessary to protect the public health, safety, or welfare.

B. Any changes in the application filed after the Sa'Cumn'e Plaza event permit has been issued may require modification of permit conditions or denial of the proposed changes.

C. No application for a Sa'Cumn'e Plaza event permit shall be submitted earlier than six months prior to the proposed Sa'Cumn'e Plaza event date.

12.74.120 Sa'Cumn'e Plaza event permit—Denial or revocation.

The city manager may deny any application for a Sa'Cumne Plaza event permit or revoke a Sa'Cumn'e Plaza event permit, for any of the following reasons:

- A. Failure to comply with the provisions of this chapter or the regulations;
- B. Fraud, misrepresentation, or any false statement contained in the application for the Sa'Cumn'e Plaza event permit;
- C. Failure to carry out of the Sa'Cumn'e Plaza event consistent with the permit application;
- D. Failure to comply with the conditions of the Sa'Cumn'e Plaza event permit, including without limitation, failure to pay applicable fees, provide indemnification, insurance certificate, or security deposit within the times required, or failure to comply with any other permit requirements or licensing requirements to conduct the planned activities as part of the Sa'Cumn'e Plaza event;
- E. Misrepresentation of any material fact in a prior permit application filed, or failure to comply with a prior Sa'Cumn'e Plaza event permit issued, within the three years immediately preceding the date of the current permit application;

F. The applicant has damaged city property and has not paid the city in full for such damage, or has other outstanding debts owed to the city that are past due;

G. The proposed use is prohibited by law;

H. The Sa'Cumn'e Plaza event organizer failed to make a timely application for a Sa' Cumn'e plaza event permit;

I. Sa'Cumn'e Plaza or any substantial portion of the plaza is not available due to fire, casualty, acts of God, maintenance activity, or public emergency;

J. The proposed Sa'Cumn'e Plaza event, as designed, will unreasonably impede, obstruct, impair or interfere with public access to City Hall or Historic City Hall and the permit applicant will not agree to redesign the proposed activity so as to ensure public access; or

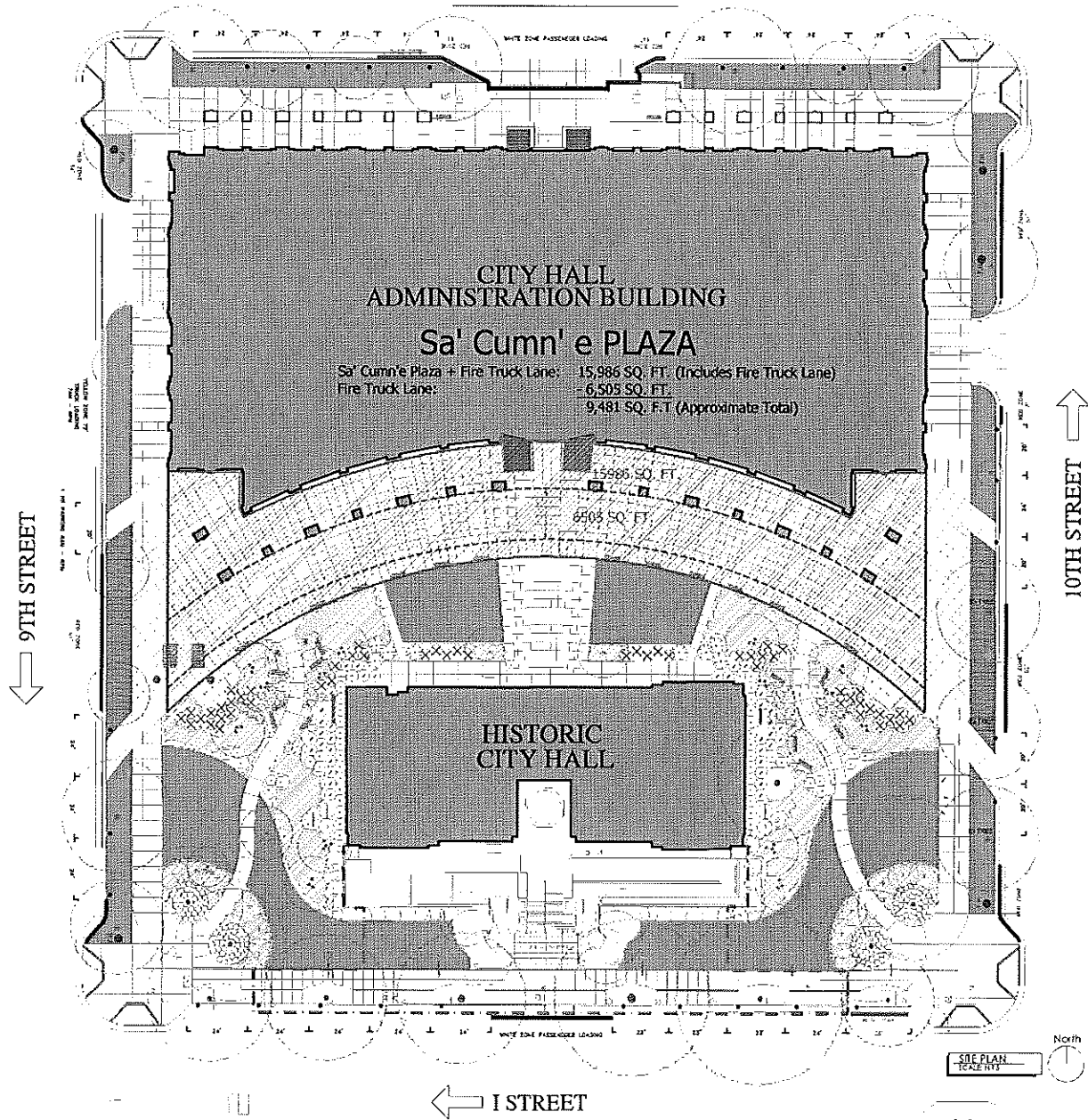
K. After issuance of the Sa'Cumn'e Plaza event permit, the city manager discovers that the Sa'Cumn'e Plaza event will conflict with a previously scheduled Sa'Cumn'e Plaza event, city program, or city activity.

12.74.130 Appeal of action on permit.

An applicant may appeal the city manager's decision to deny issuance of a Sa'Cumn'e Plaza event permit, to impose permit conditions that materially change the Sa'Cumn'e Plaza event as planned by the applicant based on the application, or to revoke a Sa'Cumn'e Plaza event permit to the city council in accordance with Chapter 1.24. A notice of appeal, accompanied by an appeal fee in an amount set by resolution of the city council, must be filed with the city clerk within 10 days after the date the city manager's decision to deny, condition, or revoke a Sa'Cumn'e Plaza event permit is sent to the applicant.

H STREET →

EXHIBIT 1



Legend:



- CROSS HATCH AREA = Sa' Cumn' e Plaza