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ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA AMENDING CHAPTER 9.04 AND ADDING CHAPTER 9.55 TO TITLE 9 OF THE EL PASO DE ROBLES MUNICIPAL CODE REGARDING PARK REGULATIONS AND FINDING SUCH ACTION DOES NOT QUALIFY AS A PROJECT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, El Paso de Robles, California (“City”) is a municipal corporation duly organized under the constitution and laws of the State of California;

WHEREAS, pursuant to the police powers delegated to it by the California Constitution, the City has the authority to enact laws which promote the public health, safety, and general welfare of its citizens;

WHEREAS, it is the obligation of the City to keep its public parks and recreational facilities available for public and recreational use;

WHEREAS, rules and regulations establishing appropriate use of public parks and related recreational facilities promote social well-being by providing safe access to all residents and further protect against the destruction and degradation of said parks;

WHEREAS, the proposed ordinance (“Ordinance”) establishes rules and regulations governing the use of City parks and recreational facilities to ensure they are maintained for the enjoyment and benefit of the public while protecting public health, safety, and general welfare;

WHEREAS, the Ordinance also establishes procedures for obtaining special event permits intended to facilitate safe and orderly use of the City’s public parks and recreational facilities therein; and

WHEREAS, all legal preconditions to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and incorporated herein by this reference.

Section 2. The City Council hereby makes the following findings with respect to the California Environmental Quality Act (“CEQA”): This Ordinance is not subject to CEQA (Public Resources Code section 21000, et seq.) because it does not qualify as a “project” under CEQA. State CEQA Guidelines provide that “[a]n activity is not subject to CEQA if ... the activity is not a project as defined in Section 15378.” (State CEQA Guidelines, § 15060(c).) Here, the Ordinance does not qualify as a “project” as defined in State CEQA Guidelines section 15378 for at least two different reasons: First, Section 15378 defines a project as an activity that “has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (State CEQA Guidelines, § 15378(a).) Here, the Ordinance introduces general park rules and regulations, such as prohibited disorderly conduct and applicable permitting procedures for special events, that will not result in a direct or reasonably foreseeable indirect physical change in the environment. Accordingly, the Ordinance is

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not a “project” subject to CEQA. (State CEQA Guidelines, § 15060(c).) Second, Section 15378 explicitly excludes from its definition of “project” the following: “organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.” (State CEQA Guidelines, § 15378(b)(5).) Here, the Ordinance involves the administration and regulation of public spaces through rules governing conduct and use. Because the Ordinance constitutes an organizational or administrative activity that will not result in a physical change in the environment, it is therefore not subject to CEQA.

In the alternative, the Ordinance is exempt from CEQA under State CEQA Guidelines Section 15061(b)(3), which provides that an activity is exempt from CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Here, the Ordinance merely establishes rules and guidelines for the use of park and related facilities that focus on conduct, safety, and event permitting without introducing any physical alterations or activities that could impact the environment and therefore is exempt from CEQA.

Section 3. **Chapter 9.55 (Parks and Recreation)** is hereby added to Title 9 (Public Safety) of the El Paso de Robles Municipal Code to read as follows:

CHAPTER 9.55 – PARKS AND RECREATION

9.55.010 – Definitions.

For the purpose of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows. If any of the definitions in this Section conflict with definitions in other provisions of this Municipal Code, these definitions shall control for the purposes of this Chapter. If a word is not defined in this Section, or in other provisions of this Code, the Director or their designee shall determine the correct definition. The Director or their designee shall have the authority to render interpretation and discretion regarding the applicability of any definition set forth in this Section:

- (a) "Applicant" or "Permittee" shall mean any individual or organization that submits a formal application for the use of a facility or the conduct of a special event pursuant to this Chapter. The Applicant or Permittee shall be at least eighteen (18) years of age; provided, however, that if the event involves the presence, service, or consumption of alcoholic beverages, the Applicant or Permittee shall be at least twenty-one (21) years of age. The Applicant or Permittee shall be responsible for the payment of all applicable fees and charges, and for the timely submission of all required documentation, including but not limited to proof of insurance as may be required by this ordinance or by administrative policy.
- (b) “City” means the City of El Paso de Robles and its relevant departments and other organizational offices.
- (c) “City Manager” means the City Manager of the City or their designee.
- (d) “Code” or “Municipal Code” means the Municipal Code for the City of El Paso de Robles.
- (e) “Department” means the Community Services Department of the City.

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- (f) "Director" means the Director of Community Services or, when applicable for events proposed at the Downtown City Park, the Director of Public Works of the City or their designees. In the event that this position is vacant or eliminated by the City, the Director shall be the City Manager or designee for purposes of this Chapter.
- (g) "Downtown City Park" refers to the City park located at Spring Street and 12th Street, Paso Robles, California.
- (h) "Inflatable attraction" means any inflatable apparatus designed for recreational use, including but not limited to, use as a slide or for jumping (sometimes also referred to as a "jumper," "jump house," or "bouncer"), inflatable movie screens, or other similar inflatable devices intended for recreational use.
- (i) "Park" or "City park" means any community park, neighborhood park, trails, recreational area or open space used for recreational purposes, or any other facility within such park located in the City of El Paso de Robles that is maintained by the City, including any parking lot within or adjacent to such park that is used in connection with park activities or facilities.
- (j) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (k) "Recreation Services Manager" means the Recreation Services Manager of the Recreation Services Division for the City or their designee.
- (l) "Special event" is defined as (1) a private event by invitation for more than one hundred (100) guests, or (2) a public event open to the general public.
- (m) "Trails" means any improved or unimproved right-of-way for equestrian, bicycle, or pedestrian purposes.
- (n) "Vehicle" means any device by which any person or property may be propelled, moved, or drawn. This term shall include trailers of any size, kind, or description.

9.55.020 – Duty to Comply.

It is unlawful for any person to violate any posted City regulation that is applicable to a City park. No person shall enter, be or remain in any City park unless said person complies at all times with all of the posted City regulations applicable to such park and with all other applicable laws, ordinances, rules, and regulations, including this Chapter 9.55.

9.55.030 – Authority.

- (a) The Director shall have the authority to develop and promulgate the rules, policies, regulations, forms, and procedures deemed necessary to administer this Chapter and regulate the use of City parks and facilities within, including issuance of special event permits and approval of other types of events and activities within City parks.
- (b) Notwithstanding anything in this Chapter to the foregoing, the City Council is responsible for approving public events within the Downtown City Park. The Director shall coordinate with the Recreation Services Manager to oversee and approve events in all other parks.

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- (c) The fees set forth in this Chapter, including those regarding permit, reservation, and facility use fees, shall be established by resolution of the City Council and may be amended from time to time.
- (d) Nothing in this Chapter shall be construed to restrict or infringe upon any individual's rights to free speech under the United States Constitution or the California Constitution. The provisions herein are intended solely to promote the safety and welfare of the community.

9.55.040 – Protection of Park Property.

It shall be unlawful and an infraction for any person to do any of the following in any City park:

- (a) **Disfigurement and Removal.** Willfully destroy, mark, deface, disfigure, injure, tamper with, displace, or remove any building, structure, tables, benches, fireplaces, railings, paving or paving material, water lines, natural or manmade landscaping, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, public utilities or parts or appurtenances thereof, play structures or parts thereof, or any other structures, equipment, facilities, park property, or appurtenances within a park whatsoever, either real or personal.
- (b) **Damaging Land.** Dig, cut, or remove any wood, turf, grass, soil, rock, sand, gravel, fertilizer, or any other organic materials, or make any excavation by tool, equipment, blasting, or other means, unless approved by the City in writing.
- (c) **Temporary or Permanent Structures.** Excepting canopies no larger than 10 feet by 10 feet, open on all sides, and securely fastened to the ground, no person shall erect or construct any temporary or permanent structure comprised of any material within any City park, unless specifically authorized by the prior written approval of the City.
- (d) **Animals.** Except persons in the performance of their official duties, no person shall hunt, kill, wound, frighten, capture, or fish for any wild bird, land animal, or aquatic animal in any City park, except that fishing shall be permitted in any body of water designated by the City as being open to fishing upon such terms and at such times established by the City.
- (e) **Waste Liquids and Refuse.** No person shall wash dishes or laundry, empty waste liquids, or leave garbage, cans, bottles, papers, or other refuse elsewhere than in the receptacles provided therefor.
- (f) **Dangerous Activities or Threatening Conduct.** No person shall engage in conduct at a park that is either dangerous or harassing, threatening, or intimidating to a reasonable person. This includes, but is not limited to, conduct that prevents others from using park facilities as intended or otherwise creates unsafe or dangerous conditions, climbing on buildings, fences, trees, railings, backstops, or picnic shelters, any conduct that involves the use of physical violence or that would reasonably be interpreted as conveying a threat of the use of physical violence, using profane, offensive, or abusive language which is inherently likely to provoke an immediate violent reaction, persisting in closely following, approaching, or otherwise engaging with a person after the individual has communicated, through words or conduct, that they do not wish to be engaged with, or disturbed, intentionally blocking or interfering with the safe passage of a pedestrian by

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any means, or engaging in conduct that unreasonably and unnecessarily impairs the lawful use and enjoyment of a park by another person.

- (g) **Utilities.** It is unlawful to open or close any valves or switches, remove any utility access covers or secured plugs, connect to electrical or water service connections, or damage any maintenance covers, plugs, or other facilities pertaining to the water or electric services in any park without the written approval of the Director.
- (h) **Pollution of Waters.** Except as permitted under Section 9.55.040(d), no person shall swim, fish, bathe, wade, release pet animals in, or pollute the water of, any fountain, pond, lake, stream, or reservoir located within City parks.

9.55.050 – Disorderly Conduct.

- (a) No person shall conduct or participate in any organized activity, sport, game, or athletic activities within any park other than in such areas as may be designated for such organized activities, sports, games, or athletic activities, nor in any areas where the City has posted signs prohibiting such activities without the prior written approval of the Director and issuance of any permit required for such event.
- (b) It shall be unlawful for any person to utilize any portion or facility of a City park that has been reserved through a prior reservation, for City-sponsored or City co-sponsored uses, or pursuant to a permit issued by the City, unless they are a registered participant or invited guest of the event, class, meeting, or activity. Any person not having a reservation or permit for the use of any portion or facility of a park requiring a reservation shall not enter, occupy, or use such premises and shall surrender or turn over possession to any person holding a valid reservation or having possession of a permit from the City for the use of said premises.
- (c) No person shall possess or consume any alcoholic beverage within any park unless specifically permitted by the prior written approval of the City. The provisions of the California Uniform Controlled Substances Act are applicable in City parks and shall be enforced and prosecuted in accordance with the provisions thereof.
- (d) No person shall use, consume, or have within their custody or control illegal drugs within any park. Smoking of marijuana or marijuana products may be prosecuted under this Chapter 9.55 or Chapter 9.41 of this Code.
- (e) No person shall kindle a fire in any City park except in designated areas as part of a permitted event, barbecues provided for that purpose or in barbecues approved by the City, or as otherwise excepted through the written approval of the Director.
- (f) No person shall vend within one-hundred (100) feet of an event authorized by a permit issued pursuant to this Chapter. A violation of this Section 9.55.050 shall be subject to penalties as set forth in Government Code Section 51039, or as it may be amended from time-to-time, including administrative fines and potential permit revocation as provided therein.
- (g) It is unlawful for any person to obstruct, impede, or interfere with any authorized person or vehicle participating in a special event for which a permit has been issued.

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9.55.060 – Parking Regulations.

- (a) The provisions of the California Vehicle Code are applicable in the City parks with respect to any way or place of whatever nature which is publicly maintained and open to the use of the public for purposes of vehicular travel. All violations of the California Vehicle Code shall be enforced and prosecuted in accordance with the provisions thereof.
- (b) No person shall park any vehicle except in designated parking areas, provided that this prohibition shall not apply to vehicles owned by the City while engaged in official business, vehicles owned by a contractor retained by the City while performing services on behalf of the City, or vehicles otherwise approved by the City for such use.
- (c) Vehicles parked in areas not designated for parking, including non-roadway areas, may be removed and stored at the owner's expense by the City Manager, Director, or other authorized City personnel.
- (d) No person shall wash or repair in any manner any automobile or other conveyance within any areas of any City park or facility.

9.55.070 – Hours of Operation

No person shall be or remain in any park between 11:00 p.m. to 6:00 a.m. of the following day without permission of the City Manager, Director, or other authorized City personnel.

9.55.080 – Closed Areas.

Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals and either entirely or merely to certain uses, as the Director finds reasonably necessary. No unauthorized person shall willfully and knowingly enter an area closed pursuant to this Section.

9.55.090 Inflatable Attractions and Ground Covering Devices.

- (a) No person shall install, erect, or contract to any other party to install or erect, whether temporary or permanent, any inflatable attraction, awning, stages, water slide, or other ground covering device on a City park or the facilities within without first being issued a permit from the City.
- (b) The Director will require an insurance policy from the vendor as a condition of the issuance of this permit. The applicant is responsible for obtaining the vendor's policy of general liability insurance, approved as to form by the City Attorney.

9.55.100 City-Sponsored Uses and Waivers.

Any use of a City park scheduled for City-sponsored or City co-sponsored uses shall be deemed a use for City purposes, and shall be exempt from fees, deposits, and permit requirements as listed in this Chapter. This exemption shall not apply to vendors present at City-sponsored or City co-sponsored events occurring at or within a park. Non-profit organizations may request a waiver or reduction of applicable fees associated with a park event if the event provides a direct public benefit to the community. All such requests must be submitted to the Director for review. Determination of which uses qualify shall be established through policy. For purposes of this section, "public benefit" shall mean the provision of services, programs, or resources that are broadly accessible to the community at no or nominal cost and advance public health, welfare, education, or civic well-being. Uses primarily serving private, commercial, or fundraising purposes do not qualify.

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9.55.110 – Permits for Special Events.

- (a) It is unlawful for any person to conduct, operate, maintain, organize, advertise, or sell or furnish tickets to any special event within any City park subject to the provisions of this Code without having first obtained a valid permit for the special event. Approval of a special event permit does not constitute approval of any other permit, license, or other approval required under this Code for the event.
- (b) Any person desiring to reserve a portion of a City park for any special event shall apply for a special event permit at least 60 days, but no more than 180 days prior to the proposed event date in accordance with this Chapter and any other rules, policies, or regulations established by the City.
- (c) No application filed for a special event proposed to be scheduled fewer than 60 days from the filing of an application will be accepted, except for a late application submission that is approved by the Director under extenuating emergency circumstances in accordance with all other applicable laws, ordinances, rules, and regulations of the City.
- (d) Downtown City Park Events. Notwithstanding the foregoing, for public special events proposed to be held within the Downtown City Park, applications must be submitted to the Director of Public Works at least 90 days, but no more than 180 days, prior to the proposed event date in accordance with this Chapter and any other rules, policies, or regulations established by the City. No applications for special events within Downtown City Park will be accepted fewer than 90 days prior to the proposed event date.
- (e) Decisions of Director, City Manager and City Council.
 - (1) City Parks, excluding Downtown City Park: If the Director denies the special event, the event organizer or other affected person may contest the denial and request review by the City Manager under Section 9.55.150 (Notice to Applicant of Action on Application).
 - (i) Once any decision of the City Manager becomes final, the event organizer or other affected person may then file a petition for writ of mandate pursuant to California Code of Procedure Section 1094.6 or 1094.8, or as otherwise permitted by law, regarding the validity of the City's decision to grant or deny the application.
 - (2) Downtown City Park: If the City Council denies a special event at the Downtown City Park, the decision is final and the event organizer or other affected person may then file a petition for writ of mandate pursuant to California Code of Procedure Section 1094.6 or 1094.8, or as otherwise permitted by law, regarding the validity of the City's decision to grant or deny the application.
- (f) The requirements and procedures for events at the Downtown City Park may be governed and supplemented through separate policy of the City Council.

9.55.120 Facility Use Permits.

- (a) A facility use permit can be obtained from the Director for any event proposed to be held in a City park that does not meet the definition of a special event, as outlined in this Chapter. Facility use permits may be issued on such terms and conditions deemed reasonable by the Director to

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protect the public welfare and park property and to promote use of the park by all persons. A facility use permit is not required for use of open space, open fields, and picnic areas of the park that have not been reserved.

- (b) A valid business license per Chapter 3.28 is required when hosting outdoor fee-based classes and activities. A facility use permit is also required when hosting outdoor fee-based classes and activities in reservable areas.
- (c) Issuance of a facility permit may be conditioned on the payment of fees and deposits as may be established by ordinance or resolution of the City Council.
- (d) The denial of a facility permit or the terms and conditions for the issuance of a permit may be contested in writing to the City Manager within five business days of the decision. The City Manager's decision following their review is final.

9.55.130 Action by City.

- (a) Except for public special event permits for the Downtown City Park, the Director is authorized to issue permits for events within City parks pursuant to the procedures established in this Chapter and applicable policies and regulations of the City.
- (b) The City Manager is authorized to close any street, or portion thereof, within or adjacent to a park as part of the issuance of a permit under this Chapter when necessary to further the purpose of the underlying event and protect the health and safety of the public.
- (c) Within 10 business days of receiving a completed special event application, with the exception of special event applications for the Downtown City Park, the investigation into the application shall be completed, and the Director shall approve, approve the application with conditions, or deny the application for the special event. If the Director determines that additional review is necessary to evaluate the event's potential impacts based on the criteria outlined in Subsection (d), the Director may extend the review period. A denial of a special event will be processed in accordance with the procedures of Section 9.55.140 (Permit Denial, Suspension, or Revocation). The Director shall notify the applicant of their action pursuant to Section 9.55.150 (Notice to Applicant of Action on Application).
- (d) The City may impose conditions on any special event permit issued pursuant to this Chapter to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful, or impermissible uses, and protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the venue. The City may impose conditions on the special event permit to prevent negative impacts to surrounding persons and properties and to ensure compliance with provisions of the Code. The conditions on a special event permit shall be reasonable time, place, and manner restrictions only and shall not be imposed in a manner that will unreasonably restrict activities or conduct protected by the United States Constitution or California Constitution.
- (e) No special event permit issued under the provisions of this Chapter shall be transferable or movable to another venue or another applicant.

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9.55.140 Permit Denial, Suspension, or Revocation.

The Director or City Council may deny an application for a special event permit if the Director or Council finds any of the following:

- (1) The application contains materially false or intentionally misleading information;
- (2) 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 of this Code;
- (3) The event or activity is proposed to be located, or is located, in or upon a premises, building or structure, which lacks adequate on or off-site parking for participants attending the proposed event or activity;
- (4) The event or activity is in conflict with other applicable provisions of any Federal, State, and/or local laws;
- (5) The event or activity is scheduled to occur at a location and time in conflict with another event or activity scheduled for the same day or weekend, where such conflict would adversely impact the City's ability to provide adequate City services in support of other scheduled events or scheduled government functions;
- (6) The event will substantially interrupt public transportation, or other vehicular and pedestrian traffic, in the area of its location without a sufficient traffic management plan in place;
- (7) 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;
- (8) The event or activity will have a substantial adverse impact on the health, safety, or welfare of the general public and/or residents and businesses within a 500 foot radius;
- (9) 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;
- (10) 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 activity;
- (11) The proposed use, event, or activity will have a significant adverse environmental impact that cannot be feasibly mitigated through reasonable conditions or measures; or

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- (12) The applicant has had a previous special event permit issued by the City revoked or suspended within the prior 36 months. The City shall notify the applicant in writing of any such violations within 60 days of the date in which all appeals for the revocation or suspension has been exhausted.
- (b) When the grounds for denial of an application are based on any of the circumstances specified in Subsection (a) of this Section, and those circumstances can be corrected by altering the date, time, duration, route, or location of the special event, the Director or City Council shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for special event issuance. The conditions imposed shall provide only for such modification of the applicant's proposed special event as are reasonably necessary to achieve compliance with Subsection (a).
- (c) A special event permit issued under this Chapter shall be revoked or suspended by the City Council, City Manager, or Director, as applicable, if they find that one or more of the following conditions exist and have not been corrected by the applicant after timely notice of the condition's existence has been given:
- (1) The special event is being used to conduct an activity different from that for which it was specifically issued;
 - (2) That one or more of the conditions listed in Section 9.55.140(a) exist;
 - (3) That the activity is being conducted in a manner which violates one or more of the conditions imposed upon the issuance of the special event permit or fails to conform to the plans and procedures described in the application;
 - (4) The event or activity is in conflict with other applicable provisions of any Federal, State, and/or local laws;
 - (5) The special event is being conducted in a fraudulent or disorderly manner, or in a manner which endangers the public health or safety; or
 - (6) The applicant or permittee has not complied with one or more of the conditions of approval, including, but not limited to remittance of fees, charges or deposits; submittal of an indemnification agreement and/or proof of insurance to the extent required; or timely receipt of all required permits and approvals.
- (d) Such revocation or suspension shall become effective upon order of the City and shall remain in effect until the applicant has corrected the violation or until the special event or permit has expired by limitation.
- (e) City Parks Excluding Downtown City Park: The decision to revoke or suspend a special event permit shall be based upon written findings and shall be subject to review by the City Manager as set forth in Section 9.55.150 (Notice to Applicant of Action on Application). The City Manager's determination shall be final and conclusive in the matter, and subject to appeal under California Code of Civil Procedure Section 1094.6 or 1994.8, or as otherwise permitted by law.

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- (f) Downtown City Park: The decision to revoke or suspend a special event permit shall be based upon written findings, as set forth in Section 9.55.150 (Notice to Applicant of Action on Application). The City Council's determination shall be final and conclusive in the matter, and subject to appeal under California Code of Civil Procedure Section 1094.6 or 1994.8, or as otherwise permitted by law.

9.55.150 Notice to Applicant of Action on Application.

- (a) Within 10 business days of receiving a completed special event application, the Director shall provide notice to the applicant of the action taken by telephone and/or by written notice via personal delivery, facsimile, if the applicant provides a fax number, or electronic mail, if the applicant provides an electronic mail address, together with a list of conditions imposed, or, if the application has been denied, the specific factual reason for the denial pursuant to Section 9.55.140 (Permit Denial, Suspension, or Revocation).
- (b) Prior to issuance of the special event permit, the Director may inform the applicant that the permit is conditionally approved pending City Council approval if the event is proposed to take place at Downtown City Park, submittal of evidence of insurance coverage, permits from other agencies, and such other documents as may be required to be submitted before the permit can be issued.
- (c) For special event applications that are denied by the Director, the notice shall inform the applicant of their right to contest the decision and request review by the City Manager the denial of the application, or any of the conditions imposed on the granting of the application, and shall state the last date on which such a request for review may be filed, which shall be the third business day after the date on which the notice was delivered personally, via facsimile, or via electronic mail to the applicant.
- (d) The City Manager shall consider the applicant's request for review of the Director's decision no later than 14 days following its filing

9.55.160 City Manager Action on Requests for Review.

- (a) After consideration of the report, decision of the Director on a special event application and any written materials submitted by the applicant or other affected person(s), the City Manager shall either overturn the denial and grant the special event permit, grant the special event with conditions, or sustain the denial of the special event permit upon determining that issuance would result in any one of the circumstances set forth in Section 9.55.140 (Permit Denial, Suspension, or Revocation).
- (b) Any decision by the City Manager shall be based on written findings and shall be final and conclusive on the matter. Upon the decision of the City Manager, the applicant may file a petition for writ of mandate pursuant to California Code of Civil Procedure Section 1094.6 or 1094.8, or as otherwise permitted by law.

9.55.170 Departmental Service Fees.

- (a) In addition to the permit reservation fee, any user fees, or other fees prescribed by ordinance or resolution of the City Council, an applicant shall pay the City for all City departmental service charges incurred in connection with, or due to, the applicant's activities under the special event permit. If City property is destroyed or damaged by reason of the applicant's use, event, or

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activity, the applicant shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

- (b) Departmental service fees will be established by a separate City Council resolution and will reflect the City's full cost of providing personnel on an hourly basis at rates established in accordance with City personnel rules and regulations and conditions contained within memoranda of understanding between the City and employee labor organizations.
- (c) At least five business days prior to a special event permitted under this Chapter, the applicant shall pay to the City the total estimated City departmental service charges identified pursuant to this Section that will be incurred by the City in connection with the special event. The amount shall be paid in cash or other adequate security, as determined by the Director. An applicant may request review, pursuant to Section 9.55.150 (Notice to Applicant of Action on Application), the amount determined under this Section.
- (d) City departments shall submit the final invoices and billings for departmental service charges to the applicant no later than 20 business days after the expiration date of the special event permit. If the amount is less than the final charges, the applicant shall pay the difference to the City within 10 business days of being invoiced for such charges from the City. If the amount is more than such final charges, the City shall refund the difference to the applicant within the 60 business days after the event.

9.55.180 Insurance and Indemnity Requirements.

- (a) For all events and permits subject to the requirements of this Chapter, the Director shall require as a condition of the issuance of a permit that the applicant 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 of El Paso de Robles 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 of El Paso de Robles shall be in excess of, and not contributing to, the insurance coverage provided to the City of El Paso de Robles under the applicant's policy. The minimum limits of liability shall conform with the requirements established by the Director.
- (b) The applicant of the event or permit shall also be required to sign an indemnity agreement in a form approved by the City Attorney.
- (c) The City Manager, Director, or Risk Manager of the City may waive the insurance or indemnification requirements of this Section if he or she determines that such requirements would be impractical or unnecessary based on the specific circumstances of the proposed event.

9.55.190 Ejection from Park.

- (a) Ejection from Park.
 - (1) A person is subject to ejection from any City park or facilities within when the following conditions occur:
 - i. The person is in violation of a park rule or regulation, including this Chapter;
 - ii. The person has been warned in a manner that is reasonably calculated to inform that person that ejection may result from any further violation;

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- iii. After receiving such warning, a further violation occurs;
 - iv. No lesser sanction reasonably appears to suffice.
- (2) However, where a violation is of such magnitude or seriousness of violence, no warnings will be necessary prior to eviction.
- (b) A group is subject to ejection from any City park or facilities within when any one of the following conditions occur and no lesser sanction reasonably appears to suffice:
- (1) There is probable cause to believe that an unlawful assembly exists pursuant to California Penal Code Section 407;
 - (2) There is a clear and present danger of imminent violence which cannot reasonably be forestalled without ejecting the entire group;
 - (3) There exists a group sponsored or organized activity which violates one or more park rules and regulations, including this Chapter, and such group sponsored organized activity has not ceased as a result of one or more warnings given to the permit applicant and the group as a whole;
 - (4) There are multiple individual violations of park rules and regulations which have not stopped following the eviction of one or more such individual violators and violations continue after the group has had a reasonable opportunity to cure them.

9.55.200 Violations.

- (a) Except where expressly stated in this Chapter, any act prohibited or declared unlawful and every failure to perform an act made mandatory by this Chapter is a misdemeanor punished in accordance with Chapter 1.02 of this Code, except that the unlawful possession of an open container of alcohol pursuant to Section 9.55.050(c) shall be punished as an infraction. However, at the discretion of the City Attorney, the violation of any of these Sections classified as a misdemeanor may be filed as an infraction. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction.
- (b) Unless expressly exempt or otherwise allowed by law, the holding or conducting of any special event subject to the provisions of this Chapter without a valid special event permit issued pursuant to the provisions of this Chapter is hereby declared a public nuisance which may be abated by the City in accordance with California Code of Civil Procedure § 731 through any means provided by law, including, but not limited to, this Code.
- (c) The remedies provided in this Section are cumulative and not exclusive and nothing in this Section shall preclude the use or application of any other remedies, penalties, or procedures established by law.

Section 4. **Section 9.04.120** (Urinating in Public Place) of Chapter 9.04 (Miscellaneous Misdemeanors) of the El Paso de Robles Municipal Code is hereby amended to read as follows (additions in underline, deletions in ~~strike through~~):

Attachment 1

9.04.120 ~~Urinating in public place~~ Public Urination and Defecation Prohibited.

~~No person within the limits of this city shall urinate in any public place or place open to public view.~~

- (a) It shall be unlawful for any person to urinate, defecate, or otherwise discard or dispose of human wastes or excretion on private property in an area exposed to public view, or on any public street, sidewalk, alley, park, parking lot, or other public place, except in a toilet receptacle provided for such purpose within the structure of a restroom, bathroom, or other enclosure.
- (b) Anyone who, by reason of illness, infection, disease, or other physical infirmity is unable to control his or her excretory functions shall be exempt from the provisions of Subsection (a). Loss of control of excretory functions brought on by voluntary ingestion of alcohol, drugs, or other intoxicants, depressants, or hallucinogens shall not be exempt from the provisions of Subsection (a).

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

Section 7. Certification. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published at least five (5) days prior to the meeting at which the proposed Ordinance is to be adopted and shall post a certified copy of the proposed Ordinance in the Office of the City Clerk. Within fifteen (15) days of the adoption of the Ordinance, the City Clerk shall cause a summary of the Ordinance to be published, including the vote for and against the same, in accordance with Government Code Section 36937.

INTRODUCED at a regular meeting of the City Council held on September 16, 2025, for first reading by the City Council of the City of El Paso de Robles, and adopted on the 7th day of October, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

John R. Hamon, Jr., Mayor

ATTEST:

Melissa Martin, City Clerk