

City of Waukesha, Wisconsin

Ordinance No. 2020 - _____

**An Ordinance Amending Section 8.115 of the Waukesha Municipal Code,
Regarding Special Events in Parks**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Section 8.115 of the Waukesha Municipal Code is amended to read in its entirety as follows:

8.115 Special Events in Parks (Cr. #24-04)

- (1) Purpose.** Public parks are open as gathering places for recreation, entertainment, education, and expression of ideas, and they are designed and equipped to meet the needs of typical numbers of people within their boundaries. Large-scale gatherings of people for special events in excess of typical numbers place extra demands on facilities, increase chances of damage to facilities beyond normal wear and tear, present problems with traffic flow, and increase the need for emergency services and police protection, among other things. This section addresses those special issues arising in connection with special events.
- (2) Definitions.** For purposes of this Section 8.115, the following definitions apply.

 - (a)** Board means the City of Waukesha Parks, Recreation, and Forestry Board.
 - (b)** Department means the City of Waukesha Department of Parks, Recreation, and Forestry.
 - (c)** Director means the Director of the Department, or his or her designee.
 - (d)** Organizer means the individual or entity who organizes, sponsors, initiates, causes, or conducts a Special Event.
 - (e)** Section means this Waukesha Municipal Code Section 8.115.
 - (f)** Special Event means an event organized, sponsored, initiated, caused, or conducted by an entity or entities other than the City, which takes place in a public park or other property under the jurisdiction of the Board, at which it is intended or is reasonably foreseeable that 400 or more individuals will attend during its duration.

(3) General Rules.

- (a) Permit Required.** No Special Event may take place unless a permit for the Special Event has first been issued by the City to the Organizer conducting the Special Event, pursuant to the terms of this Section.
- (b) Responsibility for Compliance.** The Organizer shall be responsible for compliance with this Section and for ensuring that the Special Event is conducted in compliance with all provisions of the Waukesha Municipal Code, the requirements of this Section, the Department’s Special Events Handbook, other rules and regulations of the Department, and any terms or conditions imposed on the permit issued under this Section.
- (c) Other Permits May Be Required.** The permit issued under this Section applies only within public parks or other property under the jurisdiction of the Board, and does not extend to the use of public rights of way, other City property, or private property. Additional permits and permissions may be required if the Special Event will extend beyond the limits of park property or will significantly adversely affect areas beyond the limits of park property.
- (d) Permits Are Not Transferable.** Permits issued to an Organizer under this Section may not be transferred by the Organizer to any other individual or entity.
- (e) Indemnification from Damages.** An Organizer to whom a permit is issued under this Section shall indemnify the City from all damages arising from, in connection with, or as a result of the Special Event, and the application for a permit under this Section shall contain an indemnification provision in a form approved by the City Attorney.
- (f) Reimbursement of Extraordinary Costs.** An Organizer to whom a permit is issued under this Section shall reimburse all costs incurred by the City as a result of extraordinary damage to City property during the Special Event. “Extraordinary damage” means damage to Park or other City property in excess of normal wear and tear and which requires repairs in excess of routine maintenance.
- (g) Insurance.** Organizers shall maintain a policy of public liability insurance at all times during the Special Event with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate. Policies shall be occurrence, and not claims-made, policies, and shall contain an endorsement naming the City as an additional insured and loss payee. Coverage shall be primary, not excess, and non-contributory. All policies shall be from insurers licensed to issue such policies in Wisconsin. Organizer shall deliver a certificate of insurance to City showing that all requirements of this section are met no later than 5 days before the Special Event, otherwise the permit shall be revoked.

(4) Permit Application and Process.

- (a) Application Form and Deadline.** An Organizer of a Special Event must submit an application for a permit to the Department, fully completed, signed, and with all required attachments, no later than 30 days before the date of the proposed Special

Event, using the form provided by the Department. The Director may, in his or her sole discretion, allow acceptance of an application filed fewer than 30 days before the proposed event, if necessary to preserve the Organizer's free speech rights and the proposed event can otherwise be conducted in compliance with this Section.

- (b) **Fee.** Applications will not be accepted unless accompanied by the fee specified in the fee schedule approved by the Board. The fee requirement may be waived pursuant to subsection (7).
- (c) **Distribution of Application, Recommendations of Departments.** Copies of applications received by the Department shall immediately be distributed to the Police Department, Fire Department, Department of Public Works, Waukesha Metro Transit, and City Attorney; and they shall respond in writing within 5 business days to the Department and City Attorney, indicating their approval or recommendation for denial. Recommendations for denial shall describe the bases for denial in reasonable detail, and shall describe possible alternatives or conditions which would remove the reasons for denial.
- (d) **Order and Priority of Applications.** Applications for permits shall be processed in order of receipt, and if multiple, conflicting applications are received, the earlier application shall have priority in the issuance of a permit.
- (e) **Approval and Granting of Permits.** The Department shall promptly issue a permit to an Organizer if the application is complete and accompanied by the correct fee, no City department has recommended denial pursuant to subsection (4)(c), and there is no conflicting application that has higher priority. Permits are subject to revocation for failure to provide proof of insurance coverage as required by subsection (3)(g).
- (f) **Denial of Applications.** If any department recommends denial of an application, then the Organizer shall be notified promptly, but not more than 10 days after the receipt of the application, by written notice delivered by mail or email. The notice shall describe the reasons for denial, and describe the alternatives or conditions recommended by the department that would allow the issuance of a permit. The Organizer shall be given the opportunity to modify the application or accept conditions to be imposed on the permit. If the Organizer does so and the objecting department consents, the permit shall be issued, otherwise not, and a final written notice of denial shall be delivered to the Organizer by mail or email. Modifications to the application or the acceptance of conditions shall not affect the priority of the application.
- (g) **Grounds for Denial.** An application for a permit may be denied for any of the following reasons.
 - (i) The application is incomplete, contains incorrect, misleading, or false information, is not executed properly, or is not accompanied by the required fee or other materials.
 - (ii) The Organizer is not a legal entity with authority to enter into a contract.

- (iii) The Organizer has previously made material misrepresentations to the Department in a permit application, has violated the terms of any permit previously issued by the Department, or has violated any rule, regulation, or ordinance regarding use of City parks.
 - (iv) The Organizer has previously been required to reimburse the City for extraordinary damages and has not made payment in full.
 - (v) The Special Event would conflict with City-sponsored or organized events already scheduled.
 - (vi) The projected number of participants would exceed the City-determined capacity of the park.
 - (vii) The Special Event would present an unreasonable danger to the health, safety, or welfare of the public, other users of the park, or City employees.
 - (viii) The Special Event would interfere with traffic to the extent that the provision of fire, emergency medical, and police services would be prevented or unacceptably hindered.
 - (ix) The Special Event involves activities that are expressly prohibited by law.
- (5) **Appeal of Denial.** Final denials of applications can be appealed by the Organizer by filing a written notice of appeal with the City Clerk within 4 days of the Organizer's receipt of the final notice of denial. The notice of appeal shall be accompanied by a written explanation of the reasons for the appeal and any supporting materials the Organizer wishes to present. Appeals shall be heard within 10 days of the Clerk's receipt of the notice of appeal by the City Administrative Review Appeals Board. The Organizer shall have an opportunity to present evidence and argument at the hearing. The Administrative Review Appeals Board shall render a written decision and deliver it to the Organizer by email or depositing it in the US Mail addressed to the Organizer's last-known address postage pre-paid within 3 days of the hearing. The Administrative Review Appeals Board's decision may be appealed by certiorari to the Circuit Court, using the procedure in Wis. Stat. §68.13, however, the City elects for this appeal procedure not to be governed otherwise by Wis. Stat. Chapter 68.
- (6) **Deemed Approval of Application.** If the City fails to deliver notice of denial within the time limit stated in subsection (4)(f), the Administrative Review Appeals Board fails to hear an appeal within the time limit stated in subsection (5), or the Administrative Review Appeals Board fails to render and deliver a decision within the time limit stated in subsection (5), then the application shall be deemed approved and a permit shall be promptly issued.
- (7) **Fee Waiver or Reduction.** The application fee may be waived or reduced by the Director, in his or her sole discretion, if the fee would be so financially burdensome that it would entirely preclude the Organizer from using Park property for the proposed Special Event. Application for a fee waiver or reduction shall be made at the same time as the filing of the permit application using the form provided by the Department. Procedure and timing of

approval or denial and appeals shall be as for permit applications. The waiver application shall include a sworn affidavit by the Organizer stating the circumstances and certifying the accuracy of all financial information submitted with it. The application shall be accompanied by financial information about the Organizer sufficient to determine the level of financial burden imposed by the fee.

- (8) Penalty.** A violation of this Section or a permit issued under this Section shall be punishable by a forfeiture as set forth in Waukesha Municipal Code §25.05. Each day that a violation continues shall be deemed a separate violation.
- (9) Severability.** If any provision of this Section or its application to any person or circumstance is held invalid by a court, it shall be severed from the remainder and the remainder shall remain valid to the extent practicable.

Section 2. All ordinances, or portions of ordinances, inconsistent with this ordinance are hereby repealed.

Section 3. This Ordinance shall be effective the day after its publication.

Passed the _____ day of May, 2020.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk