

ORDINANCE NO. 6 5 5 7

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, CREATING A NEW CHAPTER 2.23 TO THE CITY CODE ENTITLED SPECIAL EVENT PERMITS, AND AMENDING SECTION 8.28.010 OF THE CITY CODE RELATING TO SPECIAL EVENT PERMITS

WHEREAS, the City of Auburn periodically has persons or organizations interested in hosting or participating in special events that may utilize City streets and public properties; and

WHEREAS, such events could impact City services and traffic along City streets; and

WHEREAS, in order to accommodate the interests of such persons and/or organizations wishing to host or participate in such special events, it is appropriate to regulate them so as to address impacts to City traffic, City services and City property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows

Section 1. New Chapter to City Code. That a new chapter 2.23 of the City Code is hereby created, entitled Special Event Permits, to read as follows:

CHAPTER 2.23
SPECIAL EVENT PERMITS

SECTION:

2.23.010	Purpose and Intent.
2.23.020	Definitions.
2.23.030	Staff Review.
2.23.040	Permit Required.
2.23.050	Application.
2.23.060	Cost Recovery for Special Events.
2.23.070	Conditions of Approval.
2.23.080	Indemnification Agreement.
2.23.090	Insurance.
2.23.100	Cleaning and Restoration Deposit.
2.23.110	Appeal Procedure.

- 2.23.120 Revocation of Permits.
- 2.23.130 Violation – Penalty.

2.23.010 Purpose and Intent. The purpose and intent of this chapter shall be to:

- A. Provide for the issuance of special event permits to regulate events on the public streets and public property of the city, and private property where the event has potential to substantially impact traffic or public services; and
- B. Provide for fees, charges, and procedures in order to recoup costs associated with the event and administration of the permit process.

2.23.020 Definitions. The following definitions shall apply to this chapter of the city code:

A. Applicant: The authorized agent of the organizer who completes the application and acts as primary contact for the special event.

B. Event Participant: A person in attendance at an event, including spectators, vendors, event staff, and city staff.

C. Parade: Any organized group marching or in a procession, whether on foot, animal, or vehicle.

D. Permit: Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

E. Private Event: An event which uses public property or the public right-of-way for the purpose of monetary or personal gain by any person, partnership, group, organization, company or corporation or which is closed to the general public or on private property where the event has potential to substantially impact traffic or public services.

F. Public Event: An event which is open to the public and does not meet the definition of private event.

G. Special Event: Any function or gathering that is to be conducted on public property, on public right of ways, or on private property that will generate or invite considerable public participation and/or spectators, and may have an impact on transportation, public services or public safety, for a particular and limited purpose and time, including but not limited to:

1. Fun runs, roadway foot races, fundraising walks, bike-a-thons, car shows, parades, carnivals, shows or exhibitions, filming/movies, circuses, block parties, auctions and fairs.

2. Planned events in a park or other public place if the event use requires or organizer requests the city to provide any public services in addition to those that would normally be provided in the absence of the event.

3. Events on private property involving an open invitation to the public to attend or events where the attendance is by private invitation and is expected to have occupant load exceeding three hundred (300) is presumed to be an event that will have a direct substantial impact on the public streets, right-of-ways or emergency services, and the city reserves the right to require other permits

and/or compliance with additional requirements, including but not limited to occupancy limits and requirements of building, fire, and health and safety codes, to insure that the impacts on the public streets, right-of-ways or emergency services are adequately addressed.

4. Events involving political or religious activity intended primarily for the communication or expression of ideas.

H. Substantial Impact: An outcome indicated when an event would preclude in whole or in significant part the public's normal and customary use of a park, public place, public sidewalk, driveway or roadway.

I. Substantial Public Services: A material increase in the amount, scope or level of necessary fire, police, traffic control, crowd control, or other public resources above those that would normally be required without the event, with respect to police resources, "substantial public services" means resources for crowd management or traffic control required for the event. It also includes instances where fire and emergency services department personnel are impacted by the volume of participants, or when environmental conditions are such that the impact to the crowds would be anticipated and that these conditions would reduce the effectiveness of on duty personnel requiring the recall of sufficient personnel to assist the participants as well as maintaining the required level of service to the city.

J. Use: To construct, erect or maintain in, on, over or under any street, right-of-way, park or other public place, building, structure, sign, equipment or scaffolding, or to alter any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the city, including a use related to special events.

2.23.030 Staff Review.

A. The mayor shall direct directors and representatives of various departments of the city whose departments may be involved in or whose operations and functions may be impacted by special events to serve as a staff review committee, for the purpose of meeting and reviewing proposals for events. The mayor may, on occasion and in his/her discretion, include representatives from other agencies, entities and organizations in the staff review committee. The mayor or designee shall lead and preside over meetings of the committee.

B. The staff review committee shall be responsible for:

1. Determining whether an event requires a special event permit pursuant to the guidelines established in this chapter.

2. Establishing terms and conditions and appropriate fees.

3. Approving, approving with conditions or denying the permits.

4. Determining whether a business license is required under title 5 of the city code, and if so determining whether an exemption from business license requirements should be granted for the special event.

5. Determining if any of the activities planned for or associated with the special event are out of compliance with or in conflict with any applicable city code, policy or regulations, including, but not limited to zoning, safety and property issues.

2.23.040 Permit Required.

A. A special event permit is required for any special event as defined in this chapter. Either a special event permit or authorization shall be required in addition to any street or park use permit, or other regular permits as may be required by ordinance.

B. Exemptions: a special event permit is not required for the following:

1. Parades, athletic events, or other special events that occur exclusively on city property and are conducted in full by the city of auburn.

2. Park facility rentals meeting rental requirements.

3. Funeral procession by a licensed mortuary.

4. Gatherings of fifty (50) or fewer people in a city park, unless merchandise or services are offered for sale or trade.

5. Temporary and seasonal sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales.

6. Garage sales and rummage sales.

7. The director of administration or designee may authorize other exemptions where the proposed event meets the purpose and intent of this chapter without requiring additional project conditions or charges. Such exemptions may include minor events with limited or no impacts to traffic or public services, such as small filming events.

C. The Exemptions of paragraph B, above, apply to Special Event Permits only, and do not exempt activities or events from any permit requirements that may otherwise apply to such activities or events.

2.23.050 Application.

A. Applications for a special event permit must be filed with the city at least ninety (90) days prior to the date(s) on which the event is to occur. The staff review committee shall endeavor to process and review the application in a prompt and timely manner, and shall endeavor to keep the applicant informed of the process thereof.

B. When a special event permit is required, a representative of the staff review committee shall advise the organizer of all other city permits that appear to be required for the event based on information contained in the application and assist the organizer in contacting other departments to apply for all other permits in a timely manner.

C. Complete Applications - Form and Content: The director of administration or designee shall prescribe the form and content for complete applications made pursuant to this chapter. The requirements shall be made available to the public in a form that clearly explains what material must be submitted for an application to be considered complete. Certain submittal

requirements may be waived by the director of administration or designee, if the applicant can demonstrate that normally required information is not relevant to the proposed action and is not required to show that an application complies with applicable city codes and regulations.

D. **Waiver of Application Deadline:** Upon a showing of good cause or at the discretion of the staff review committee, the committee shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstance that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and/or the event is for the purpose of exercising rights under the first and/or fourteenth amendments of the United States constitution.

E. **Date of Special Event Not Confirmed Until Notice of Confirmation Issued:** Notwithstanding the acceptance of a completed application. The date of the event shall not be considered confirmed until the staff review committee issues a written notice of confirmation or a special event permit.

F. **Decision Criteria - Approval or Approval With Conditions:** The city may approve or approve with conditions the special event permit based on consideration of any one or any combination of the following factors:

1. The special event will not be materially detrimental to the public health, safety, or welfare nor injurious to property or improvements in the vicinity of the special event; or
2. Adequate parking facilities and vehicle ingress, and egress will be provided to serve the special event and any existing uses on the site; or
3. Hours of operation of the special event are specified, and will not adversely impact surrounding uses; or
4. The special event will not cause noise, light, or glare that would materially impact surrounding uses; or
5. The applicant has obtained all other applicable permits, including required right-of-way use permits.

G. **Decision Criteria - Denial:** The city may deny the special event permit based on consideration of any one or any combination of the following factors:

1. The applicant provides materially false or misleading information, fails to complete the application or to supply other required information or documents; or
2. The applicant is unable to comply with the requisite terms and conditions to obtain the permit; or
3. The proposed event conflicts with another previously scheduled event or condition; or
4. The proposed event would unreasonably disrupt the orderly or safe circulation of traffic or would present an unreasonable risk of injury or damage to the public or property; or

5. There is not sufficient safety personnel or other necessary City staff to accommodate the event.

2.23.060 Cost Recovery for Special Events.

A. Prior to the issuance of a special event permit the applicant will be provided an estimate for the cost of any necessary City personnel and/or equipment. The applicant may be required to provide a deposit to cover the anticipated costs. City services and equipment may include the use of police officers and public employees for traffic and crowd control, police, extraordinary street sweeping, and any other needed, requested or required city service and the cost of operating the equipment to provide such services. These fees may be in addition to other permit fees that may be required. A special event permit will be issued when all fees have been paid and other permit obligations have been met unless otherwise provided in the conditions of approval.

B. If the actual cost for city services and equipment on the date(s) of the event is less than the estimated cost, the applicant will be refunded the difference by the city in a timely manner. If the actual cost for city services and equipment on the date(s) of the event is greater than the estimated cost, the applicant will be billed for the difference.

2.23.070 Conditions of Approval.

A. The staff review committee may include as part of the special event permit, among other provisions, reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property and provide for the control of traffic. Conditions shall be based upon projected impacts on public safety, public places and public services, but shall not be based upon the programming content of the event or message that the proposed event may convey or any other valid expression of rights under the first and fourteenth amendments.

B. The following types of conditions apply to all special event permits:

1. Conditions concerning the time, place, and manner of the event proposed on the event application, including provisions for extensions of the permit: and

2. Conditions concerning the area of assembly and disbanding of an event: and

3. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of the street or right-of-way.

C. Other conditions that may apply to special event permits include, but are not limited to:

1. Compliance with city traffic control plans and requirements for the use and rental of traffic cones, barricades, flaggers, or other requirements as identified

2. Compliance with health and sanitary regulations.

3. Plan for emergency treatment and evacuation of people who may need such services, emergency communication, compliance with fire regulations

concerning fire suppression equipment within structures and maintenance of unobstructed emergency passageways.

4. Requirements for use of event monitors and providing notice of permit conditions to event participants.

5. Restrictions on the number and types of vehicles animals or structures at the event.

6. Inspection and approval of floats, structures, and decorated vehicles for fire safety.

7. Requirements related to animal protection.

8. Requirements for use of separate garbage and recycling containers, cleanup, and restoration of city property.

9. Restrictions on the use of amplified sound and compliance with noise ordinances, regulations and laws.

10. Notice to residents and/or businesses regarding any activity that would require a whole or partial street closure, including single lane closures.

11. Restrictions on the sale and/or consumption of alcohol.

12. Elimination of an activity that cannot be mitigated to ensure public safety and welfare, or that causes property damage or undue liability to the city.

13. Requirements regarding the use of city personnel and equipment.

14. Requirement for provision of a plan for parking, car pooling, or use of public transportation.

2.23.080 Indemnification Agreement.

Prior to the issuance of a special event permit, the city shall require the applicant to execute a hold harmless and indemnity agreement and any other necessary waivers with the city. The applicant must further agree to reimburse the city for any costs incurred by it to repair damage to city property caused by applicant's special event.

2.23.090 Insurance.

A. The following insurance shall be required in connection with the issuance of a permit for a special event: one million dollars (\$1,000,000.00) commercial general liability insurance per occurrence; combined single limits, two million dollars (\$2,000,000.00) aggregate, unless waived or modified by the city.

B. The city's director of risk management is authorized and directed to require written proof of such insurance prior to permit issuance. The insurance policy shall be written on an occurrence basis, shall name the city as an additional insured on a non-contributory primary basis, shall be written for a period not less than twenty-four (24) hours prior to the event and extending for a period not less than twenty-four (24) hours following the completion of the event.

C. The city reserves the right to require other forms of insurance in addition to the commercial general liability, if the city risk manager determines that such additional form of insurance is necessary for the particular type of event.

2.23.100 Cleaning and Restoration Deposit.

The applicant may be required to provide a cleaning and restoration deposit prior to the issuance of a special event permit. The cleaning and restoration deposit will be refunded after the event. If the area used for the permitted event has been cleaned and restored to the same condition as existed prior to the event.

If the property used for the event has not been properly cleaned or restored, the applicant shall be billed for the actual cost by the city for cleaning and restoration. The cleaning and restoration deposit shall be applied toward the payment of the city's actual cost for cleaning and restoration.

2.23.110 Appeal Procedure.

A. An applicant may appeal the denial of a permit or any permit condition, by filing a written notice of appeal, accompanied by a fee of two hundred fifty dollars (\$250.00) to the city clerk within fourteen (14) days of the decision.

B. The notice of appeal shall specify the grounds for the appeal and applicant may attach any relevant documents in support of the appeal.

C. An appeal under this chapter shall be conducted by the director of administration or designee, who will issue a written decision regarding the appeal within ten (10) days.

D. The director of administration's or designee's decision may then be appealed to the mayor or designee. No new or additional evidence or testimony shall be accepted by the director of administration or designee in this appeal. The mayor or designee shall give substantial weight to the decision made by the director of administration or designee.

2.23.120 Revocation of Permits.

Any permit issued under this ordinance may be revoked by the city at any time if, by reason of disaster, public calamity, riot or other emergency or exigent circumstances, the city determines the safety of the public or property requires such immediate revocation. The city may also revoke any permit issued pursuant to this ordinance if the staff review committee finds that the permit has been issued based upon materially false information or if the event exceeds the scope of the permit or fails to comply with any condition of the permit.

2.23.130 Violation – Penalty.

Failure to abide by any and all requisite conditions set forth in this chapter shall be an infraction subject to penalties and conditions of chapter 1.25 of the city code.

Section 2. Amendment to City Code.

That a Section 8.28.010 of the

City Code is hereby amended, to read as follows:

8.28.010 Noise control.

A. **General Prohibition.** It is unlawful for any person to cause, or for any person who owns or occupies property to allow to originate from the property, sound that is a public disturbance noise.

B. **Public Disturbances.** The following sounds are public disturbance noises in violation of this chapter:

1. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property;

3. Yelling, shouting, whistling or singing on or near public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m. or at any time and place as to unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property;

4. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium, which unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings;

5. Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself;

6. Sound from portable audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the source and not operated upon the property of the operator, and if operated on the property of the operator, then so as to be audible greater than 50 feet from the boundary of the property;

7. The squealing, screeching or other such sounds from motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners or because of such other reason; provided, that sounds which result from actions which are necessary to avoid danger shall be exempt from this section;

8. Construction noise shall be regulated as follows:

a. Except as provided for in subsection (B)(8)(b) of this section, sounds originating from construction sites, including but not limited to sounds from construction equipment, power tools and hammering before 7:00 a.m. and

after 10:00 p.m. on any day of the week except Sunday and before 9:00 a.m. and after 10:00 p.m. on Sundays;

b. For construction on property in the R1, R2, R3, LHR1, LHR2, LHR3 and PUD zones, sounds originating from construction sites, including but not limited to sounds from construction equipment, power tools and hammering before 7:00 a.m. and after 7:00 p.m. and on weekdays, before 9:00 a.m. and after 6:00 p.m. on Saturday and Sunday;

c. Construction activity may be permitted outside the hourly limits set forth in subsections (B)(8)(a) and (b) of this section only upon application and approval by the city planning and development director. Criteria for approval shall include project remoteness, undue hardship or other reasonable standards. Approval may only be for specific dates and times and other compelling reasons. In order to be entitled to receive approval, the applicant must show the city that the need for expansion of the hours is caused by circumstances of an unforeseen and emergency nature or circumstances where there are no other reasonable alternatives other than the relief requested. Approval may only be for specific dates and times and under terms that the approving official deems appropriate under the circumstances;

d. The request for the expansion of the hours for construction related noise shall be made in writing to the planning and development director, on forms available from the planning and development department. Decisions of the planning and development director on such requests may be appealed by a party affected by the decision to the city's hearing examiner. Appeals of decisions of the planning and development director shall be based solely on the above criteria;

e. It is further provided that the mayor or designee shall be entitled to exempt from the provisions of this subsection (B)(8) public agency projects involving work in public rights-of-way, right-of-way agreements and right-of-way permits, where noise is addressed as a condition of approval or agreement;

9. Sounds originating from residential property relating to temporary projects performed by the homeowner for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from lawnmowers, powered hand tools, snow removal equipment and any other power motorized equipment before 7:00 a.m. and after 10:00 p.m. on any day of the week except Sunday and before 9:00 a.m. and after 10:00 p.m. on Sundays;

10. Continuing and/or ongoing sounds from nonemergency motor vehicles audible more than 25 feet away from the vehicle located on or in the vicinity of residential property, which sounds reasonably cause the annoyance or disturbance of two or more neighbors not residing at the same address, due to the ongoing or repetitive nature of the sounds, or the very early or very late hours of the sounds. For the purposes hereof, sounds coming from motor vehicles, including but not limited to engine sounds, horn sounds, hydraulic or air break sounds, or other equipment located on the motor vehicle or attached trailer, that are audible more than 25 feet away from the vehicle located on or in the vicinity of residential property, after 10:00 p.m. at night or before 7:00 a.m. on any day of

the week except Sunday and after 10:00 p.m. at night or before 9:00 a.m. on Sundays, shall be presumed to be a public disturbance noise. Such presumption shall only be rebutted upon a showing before the adjudicatory body that the noise was caused by circumstances of an unforeseen and emergency nature.

C. It is also unlawful, and a violation of this chapter, for the owner or other person having control or custody of any dog, cat, or other animal to allow such dog, cat, or other animal to habitually howl, yelp, bark, or make other noises which unreasonably disturb another person.

D. Exclusion. This chapter shall not apply to community events such as parades pursuant to chapter 10.64 of the city code, special events pursuant to chapter 2.23 of the city code or regularly scheduled events at parks, such as public address systems for baseball games or park concerts between the hours of 9:00 a.m. and 11:00 p.m. This chapter shall not apply to fireworks lawfully discharged within the city. This chapter shall also not apply to public safety training activities between the hours of 7:00 a.m. and 11:00 p.m. (Ord. 6287 § 2, 2010; Ord. 6017 § 1, 2006; Ord. 6010 § 1, 2006; Ord. 5899 § 1, 2005; Ord. 5658 § 1, 2002; 1957 code § 9.10.010.)

Section 3. Amendment to the City of Auburn Fee Schedule. The City of Auburn Fee Schedule shall be amended to provide for a Special Event Appeal Fee in the amount of two hundred fifty dollars (\$250.00), which fee shall be paid with the submittal of a Special Event Appeal, pursuant to Section 2.23.120 of the City Code.

Section 4. Constitutionality or Invalidity. If any section, subsection clause or phase of this Ordinance is for any reason held to be invalid or unconstitutional such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, as it is being hereby expressly declared that this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication, as provided by law.

FIRST READING: MAY 18 2015

SECOND READING: JUN 1 2015

APPROVED: JUN 1 2015

CITY OF AUBURN

Nancy Backus
NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid
Daniel B. Heid, City Attorney

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