

Ordinance O-17-15

ORDINANCE REPEALING AND RECREATING PORTIONS OF CHAPTERS 6.98 AND 7.50 OF THE WAUWATOSA MUNICIPAL CODE TO CREATE A SPECIAL EVENT PERMIT

The Common Council of the City of Wauwatosa does hereby ordain as follows:

Part I. Chapters 6.98 and 7.50 of the Wauwatosa Municipal Code are hereby repealed and Chapter 7.50 is recreated to read as follows:

Chapter 7.50 - Special Events

Section 7.50.010 - Purpose

The City of Wauwatosa recognizes that Special Events organized by individuals, private organizations, and non-profits serve an important role in enhancing the city's quality of life and can provide benefits to the community as a whole. In an effort to treat all persons and groups uniformly, to facilitate the successful staging of these special events, and to be mindful of the efficient use of available facilities and resources, the City will commit staff time and facilities to review applications to hold special events and assist the organizers as needed to ensure that special events have an overall positive effect upon the community and its resources.

The City will review Special Event applications for the purpose of assisting the event organizer in complying with various applicable public safety requirements, as well as be involved during the special event as needed to protect the safety and welfare of the public, and resources owned by the public.

During the City's review and oversight in this process, the City will address traffic and parking issues, health and safety issues related to the participants and the public, effects upon neighboring properties, fire potential, explosions, disorder and other dangers to persons or property, preservation of peace and order, sanitation, and the overall safeguarding of the public health. The City will also consider the potential diversion of public health, safety, and emergency services from their regular and necessary duties, and the additional costs of providing public services necessary to protect the public health, safety, and welfare associated with special events.

Section 7.50.020 - Definitions

- A. "Special event" means a temporary gathering of people on public or private property and involving at least one of the circumstances listed below. The City Administrator, or his designee, shall have the exclusive authority to determine whether or not an event meets the definition of "Special Event."
1. Will involve the closing and exclusive use of a public street, alley, or public right of way;
 2. Over 250 people at any one time attending the event on private property, except those situations where a constitutional right is being expressed - marches and public assemblies;

3. City ordinances and rules require public safety support by City employees;
 4. Will require Extraordinary Services by any City Department;
 5. Hours of the event extend beyond those otherwise adopted in City ordinances; or,
 6. Alcohol, beverages, food, and/or merchandise will be offered for purchase.
- B. "City property" includes all municipal buildings, streets and other rights of way, parking lots owned, leased or controlled by the City of Wauwatosa.
- C. "Extraordinary Services" means reasonable and necessary services provided by the City which specifically result from the Special Event. Extraordinary services result in measureable financial costs which are above and beyond the normal levels of public health and safety services on a non-event day. Extraordinary services will normally be those services requiring city employees to be specifically assigned to tasks in support of the Special Event and/or those services resulting in overtime pay or similar costs which result from the event. Examples of extraordinary services may include police protection, traffic control, fire monitoring, dedicated paramedic service, parks services, and other services necessary to ensure the protection of participants and citizens, the proper functioning of City services, and the proper administration of this ordinance and policy. The City will make reasonable efforts to adjust the schedules of employees to minimize the requirement for overtime pay or other costs for Extraordinary Services where sufficient advanced notice of the event is provided.
- D. "Block Party" means a temporary event that closes one block of a street and does not close an intersection.

Section 7.50.030 - Permit Required

- A. No person or entity acting as an event organizer shall set up for, hold, or conduct a Special Event, within the municipal boundaries of the City of Wauwatosa without first obtaining a Special Event permit. The City Administrator, or his designee, shall have the exclusive authority to determine whether or not a permit is required for any particular event. The City's review of any permit application and/or its subsequent issuance of a permit shall not be construed as acceptance by the City or its representatives of any liability or responsibility for any injury or damage relating to the Special Event. Special Event permits are temporary in nature, and do not vest any permanent rights.
- B. A Special Event permit is required except for the following situations:
1. Events wholly contained on public or private property:
 - a. Specifically designed or suited for the Special Event; and
 2. Which has an appropriate physical area for fire protection purposes, as well as appropriate sanitation facilities and street and/or highway access; and,
 - c. Which result in no greater use of public facilities and services than on normal, non-event days. The provision of legal parking spaces is not included in the determination of whether or not an event is "wholly contained" on public or private property.

2. Funeral processions.
3. Students going to and from classes or participating in educational activities under the immediate direction and supervision of the proper school authorities of schools located within the city of Wauwatosa;
4. Religious activities or ceremonies of any religious congregation located within the city of Wauwatosa, providing such conduct is under the immediate direction and supervision of the proper authorities of the religious congregation;
5. Events organized solely by the City, e.g., Independence Day Parade. In these instances, notices shall be given to all affected departments so that they may determine their level of sponsorship. Events in which the City participates as one of the organizers are not exempt from the requirement of obtaining permits.
6. Recurring events which enter into a separate and specific agreement, which is approved by the Common Council, to hold the event pursuant to the terms of the individual agreement. The Council is authorized to modify the terms or requirements of this Ordinance within such an agreement, provided the modifications meet the spirit if not the letter of this Ordinance.
7. Events in Hart Park Stadium.
8. Events on property otherwise exempt from City of Wauwatosa permitting requirements, such as events wholly contained on property owned by the State of Wisconsin, Milwaukee County, etc.

Section 7.50.040 - Permit Requirements

- A. Completed written applications for a Special Event permit along with the application fee shall be filed with the City Clerk. Applications shall be on the form approved by the City and signed by the person or authorized representative(s) of the entity organizing the Special Event. The application may be filed as early as desired by the applicant, but shall be filed no more than one (1) year before, and no less than 45 days prior to the event. Applications for Special Event permits shall be processed in the order of their receipt.
- B. Special Events must comply with all applicable City ordinances and requirements, including but not limited to traffic rules, park rules, state health laws, fire codes, building codes, zoning, food service, merchant, and liquor licensing requirements. Special Event organizers shall use all reasonable efforts to ensure compliance of participants/ attendees with all applicable City ordinances, traffic rules, park rules, state health laws, fire codes, and other licensing requirements, unless otherwise waived herein.
- C. The applicant shall identify a designated individual who can be contacted at any time by any person regarding the event, including City representatives such as the Police, Fire, Health, Parks, Public Works, or City Attorney's departments to provide information or answer questions, or to whom City representatives may refer questions and comments from the public.
- D. The following City departments will be provided with copies of the Special Event permit application for their review and comment: Police, Fire, Health, Public Works, Parks, and City Attorney's. Additional City officials may need to review the application as may be warranted by the specific circumstances of the event. City departments shall notify the City Administrator, or his designee, that they recommend the approval or denial of the Special Event permit as

requested, approval of the permit is contingent upon changes or modifications of the original request, or take no position on the application. At the time each City department comments upon an application, they shall also provide their best estimate of the cost of extraordinary services which may be necessary for the event.

- E. The approval of any Special Event permit application shall always be conditioned upon the approval of all other necessary permits, licenses, and inspections by City departments, in addition to Common Council approval if the following conditions apply:
 - 1. Special Event requires a temporary extension of licensed premise (liquor license);
 - 2. Special Event closes access to multiple streets and intersections over a four hour time period;
 - 3. Special Event organizer requests Extraordinary Service fees be waived;
 - 4. Special Event organizers request being open beyond the defined hours of operations between 8 a.m. and 12 a.m.; and
- F. Special Event permits shall not be transferred or assigned without approval of the Common Council. Special Event permits are automatically revoked at the time of transfer or assignment without prior approval of the Council.

Section 7.50.050 - Regulations

Special Event permit applications shall address the following issues and attach additional supporting material, if necessary. A summary of required information follows, and more specific requirements can be obtained from City departments when planning the event and seeking City approval.

- A. **Duration and hours of Operation:** The Special Event application shall specify the specific days upon which the event shall occur or, in the case of seasonal or recurring events, the days within the season or period within the calendar year upon which the event will occur. No Special Event shall be open except between the hours of 8:00 a.m. and 12:00 a.m., unless such other hours of operation are specifically approved by the Council. The permit application shall also specify the hours during which pre-event set up and post-event takedown operations will occur, and no such pre-event and post-event activities may be conducted other than as specified.
- B. **Maximum Attendance:** A Special Event permit application shall specify the maximum daily peak number of people reasonably expected to attend.
- C. **Parking:** A Special Event permit application shall include a plan identifying areas that may be reasonably expected to be utilized by event participants for off-street and on-street parking. The applicant shall take all reasonable precautions to minimize adverse effects on the neighborhoods that will be directly affected by parking and traffic related to the event. The police department shall post temporary parking-related regulations on public streets for Special Event only if it is determined to be necessary by the Police Chief for public safety.
- D. **Sanitary facilities and Potable Water:** All sanitary facilities and potable water facilities shall be provided for as required in the applicable codes.
- E. **Illumination:** If the Special Event is to continue during hours of darkness, it shall comply with all

applicable codes related to illumination.

- F. Security: The Special Event applicant shall work with the Wauwatosa Police Department to ensure that appropriate security and safety is provided for the event. The Police Department may be required, at its discretion, to be directly involved in the Special Event, with the costs of any Extraordinary Services to be borne by the Special Event applicant.
- G. Fire Dept. Protection: All fire protection applicable to the Special Event activities on the premises, shall be provided by the applicant as required by the municipal Fire Prevention Code and the Wisconsin Administrative Code, including alarms, extinguishing devices, fire lanes, and fire escapes.
- H. Compliance with other Code Provisions: No Special Event shall be held unless all necessary municipal permits, licenses, and approvals applicable to the activities to be held during the Special Event have been issued.
- I. Refuse Removal: The Special Event organizer shall be responsible for taking all reasonable efforts to pick up litter, refuse and recycling during the event, and for removing all litter, refuse and recycling created during the event within twenty-four (24) hours after the conclusion of the event. The event organizer is responsible not only for the event grounds, but will also take all reasonable measures for the removal of litter, refuse and recycling attributable to the event from the surrounding neighborhoods and properties. Refuse and recycling containers are available for rent from the City.
- J. Notification: The Special Event organizer is required by the City to provide reasonable advance notice to property owners, residents and/or businesses. The Special Event organizer shall include date, time, and location/route to all properties that border the location of the planned event and any other areas designated by the Police Department at least ten business days in advance of the special event.

The Aldermen of the district in which the Special Event is scheduled to occur shall be provided a copy of such notification prior to its delivery to property owners, residents and/or businesses as described above.

- K. Barricades: Barricades may be required for street closures or pursuant to a security plan. Barricades will be available for rent from the City. All barricades used for the Special Event shall meet the standards as set forth in the Manual on Uniform Traffic Control Devices (MUTCD), unless they are manned barricades.

Section 7.50.060 - Application Review

- A. Applications for Special Event permits shall be processed in the order of their receipt. Persons or groups holding an approved Special Event may reserve dates for the event to be held the following year provided they submit to the City Clerk notification of their intent to hold the event, the date(s) on which the event is expected to be held, and the application fee within sixty (60) days after the end of the Special Event. This notice and fee will reserve the dates identified until the formal application is submitted, or the notice of intent is withdrawn, and will have priority over any other applications received. Dates will not be reserved if an application also

includes a request to waive the application fee. Unless the City receives a notification of intent to hold an event as described above, the use of City property and allocation of City resources shall be based upon the applications as they are received without regard to events that may have been held in previous years. Recurring events with separate agreements approved by the Council will have priority over the above reservations for the reservation of dates and the allocation of City services.

- B. Upon receiving an application for a Special Events permit, the City Administrator, or his designee, may schedule a meeting or meetings involving the applicant, any of the affected City departments, the public, and/or other interested persons or officials. Meetings will be scheduled at the discretion of the City Administrator, or his designee based upon the circumstances of the Special Event. The purpose of the meeting will be to discuss the Special Event and its potential impacts, the City services requested, and the City services which may be required. Such a meeting will be held as soon as practical after the application has been submitted.
- C. As soon as practical after the Special Event permit application is submitted, the City Administrator, or his designee, shall provide a recommendation to the Common Council regarding the Special Event permit application if the event meets the conditions under Permit Requirements, Section A, Sub-point 5. Potential recommendations may include: (1) the permit be issued as requested and without conditions; (2) the permit be denied; or, (3) the permit be approved subject to certain conditions deemed reasonable and necessary. The City Administrator, or his designee, may also recommend to the Council that the costs for Extraordinary Services anticipated by the City to be necessary should be recouped from the event organizer(s) or that the costs for Extraordinary Services provided should be waived. The Common Council shall approve or deny Special Event permit applications, place conditions upon any permit, and require that some or all of the costs incurred by the City for providing Extraordinary Services be reimbursed or that such costs will be waived.
- D. To the extent permitted by law, the City Administrator, or his designee/Common Council may deny an application for a permit if the applicant has on prior occasions made material misrepresentations regarding the nature or scope of any event or activity previously permitted, has held prior special events without proper permitting or licensing, or has violated the terms of a prior permit issued to or on behalf of the applicant. Additionally, a prior experience of the applicant in holding any event, or in holding the Special Event which is the subject of the application, will be considered and may impact the issuance of Special Event permits. A permit may be denied, or conditions placed thereon, based upon considerations of the health, safety, and welfare of the community, and of the anticipated costs of holding such event. Additionally, the City Administrator, or his designee/Common Council may base their decision on one or more of the following grounds:
 - 1. The application is not fully completed and/or fails to include necessary attachments;
 - 2. The applicant asserts that they cannot or will not pay the cost for Extraordinary Services and the City Administrator, or his designee/Council determines that such costs should not be waived;
 - 3. The application for permit contains a material falsehood or misrepresentation;
 - 4. The applicant is not legally competent to sign a contract, or to be held responsible for its actions;

5. The applicant has, on prior occasions, been required to pay for Extraordinary Expenses or damages to City property and has not paid in full for such expenses or damages;
 6. A Special Event permit application for the same time and place, route or utilizing extraordinary City resources, has previously been received, and a permit for such previous application has been or will be granted which will authorize uses or activities which does not reasonably permit the multiple occupancy of City facilities or would result in a utilization of City resources which would adversely affect the health, safety, and welfare of the community;
 7. The Special Event use or activities intended by the applicant would conflict with previously planned events and programs which have been organized by others either through the use of City facilities or the unavailability of sufficient City resources for the proposed event;
 8. The intended Special Event use or activity would present a grave or unreasonable danger to the health or safety of the persons expected to participate in the event, the neighborhood in which the event will occur, the community as a whole, or City property and resources required to be involved with the proposed event;
 9. The number of persons expected to participate in the Special Event would result in a concentration of persons, vehicles, or things which cannot be supported at the requested time or location due to a lack of sufficient open area, streets, offsite parking, or traffic controls.
 10. Activities reasonably expected to occur at the intended Special Event are prohibited by law.
- E. Amendment or Revisions of Applications. Any amendment or revision of any permit application shall, for purposes of determining the priority of the application, relate back to the original filing thereof unless the original filing is unreasonably incomplete or lacking sufficient information to allow for an adequate review of the proposed event.
- F. Mapped Routes. Use of identified routes for Special Events such as parades and run/walks must be submitted with the permit application. Routes for use are provided by the City in the interests of the health, safety, and welfare of the community. Any deviation from the approved route without approval of the City will constitute a violation of the permit conditions and of these requirements. Additionally, unapproved changes may result in the denial of future Special Event permit applications.

Section 7.50.070 - Fees and Reimbursement Schedule

A non-refundable administrative fee is required for all Special Event permit applications. Permit shall not be issued unless the fee is paid. The permit application fees identified herein are separate from other specific fees or licenses required, and separate from any requirement to reimburse the City for the actual cost of any Extraordinary Services required for the permitted event, or for damage or destruction resulting from the event.

- A. Special Event Permit Application Fee is defined in the Consolidated Fee Schedule.
1. All other required charges and/or fees, including but not limited to concessions permit, temporary liquor license extensions, tent permit, stadium rental, equipment rental, etc., must

be paid in addition to the permit application fee. During the application review process staff will identify additional permits/licenses and outline them for the applicant.

2. Applicants for Block Party type Special Events shall be exempt from the application fee.

B. Extraordinary Services Charges

Each year City staff shall develop a list of estimated standard fees and charges which will be used to determine the amount of charges attributed to Extraordinary Services provided to Special Events by the City.

C. Extraordinary Services Reimbursement:

1. For those Special Events in which costs for Extraordinary Services are not waived by the Common Council, event organizers shall be liable for and shall pay to the City the actual cost of all Extraordinary Services. If the Special Event has more than one person or entity organizer, then each of the organizers are liable to the City for the total amount due, regardless of how the multiple organizers may separately agree to divide these expenses. If the City is a co-organizer of a Special Event, the cost of the Extraordinary Services the City is responsible for will be based upon the level of City involvement, and that amount shall be deducted from the total cost for the Extraordinary Services provided by the City. The costs for Extraordinary Services charged to event organizers shall not exceed the actual costs of providing these services. These costs shall be paid to the City prior to the event date and to receive a permit.
2. Prior to any approval of a Special Event permit, the Police, Fire, Health and Public Works Departments, along with all other departments potentially affected by the proposed Special Event, shall review the application and report to the _____, or their designee, their respective findings as to an estimate of the costs reasonably expected to be incurred by the City for providing Extraordinary Services at or for the Special Event. The application shall be required to provide enough detail to allow the City departments and to determine the level of Extraordinary Services required and their associated costs for the Special Event. The estimates provided by City departments shall provide enough detail to allow the event organizer to reasonably understand the Extraordinary Services that are expected to be necessary.
3. If the Special Event permit goes to the Common Council due to a request by the applicant to waive the Extraordinary Services fees, and after reviewing the findings of the City departments, they may recommend that conditions be placed upon the Special Event permit, if approved. Alternatively, the City Administrator, or his designee may recommend that payment or reimbursement of some or all of the costs for Extraordinary Services to be provided be waived.

Section 7.50.080 - Considerations for Reviewing Application Fees and/or Extraordinary Service Fees

- A. The Common Council will review applications if there is a request for an extension of a

licensed premise (liquor license), to close access to multiple streets and intersections, waiver for Extraordinary Service fees, and operations beyond the defined hours.

- B. City staff will review and approve/deny all other applications that fall short of the four identified criteria above.
- C. The Council/City staff should at a minimum consider the following criteria for making these determinations, as well as other criteria which may be relevant on a case by case basis. As each Special Event is different, the Council/City staff may place different weight on different criteria in each circumstance and therefore the following list does not set any priorities for any particular event.
 - 1. The Special Event's benefit to the quality of life to the City as a whole;
 - 2. The Special Event's financial benefit to the City as a whole;
 - 3. The Special Event is of interest to a smaller segment of the City's population which the City seeks to encourage;
 - 4. The tradition of the event in the City;
 - 5. The cultural and/or historical significance of the Special Event;
 - 6. Whether or not the Special Event provides services or functions that are traditionally organized or sponsored by other Cities or governments;
 - 7. Whether or not the Special Event organizers are making good faith efforts to minimize adverse effects on the health, safety, and welfare of the community and as a result minimizing the need for City employee involvement;
 - 8. The effect of the Special Events on the neighborhood(s) surrounding the site of the event;
 - 9. The financial burden the Special Event places on the City's taxpayers as a whole;

Section 7.50.090 - Glass Containers Prohibited

No person shall carry, possess, or drink any liquid beverage in a glass container while at a Special Event that received a temporary liquor license. This applies during the time a Special Event permit is in force, except any authorized vendor required by law to maintain the product in original glass containers prior to service in a non-glass beverage container.

Section 7.50.100 - Indemnification and Hold Harmless

Organizers of Special Events shall be required to sign an agreement in a form acceptable to the City in which they agree to indemnify the City of Wauwatosa, and its departments, and hold the City and its departments, employees, and agents, harmless from any liability to any person resulting from any damage or injury to property or any person which occurs in connection with the permitted event proximately caused by the any actions or inactions of the event's organizer, their officers, employees, or agents, or any person under their control insofar as permitted by law.

Section 7.50.110 - Insurance

All Special Event organizers shall procure at their expense, a policy of insurance subject to the following minimum requirements for Special Events:

- A. Comprehensive general liability insurance, insuring the special event and naming the city as an additional insured, shall be required as a permit condition. Unless a different amount is specified, coverage shall be in amounts not less than the following:

1. Bodily injury (each occurrence)	\$1,000,000
2. Bodily injury (aggregate)	\$1,000,000
3. Property damage (each occurrence)	\$ 500,000
4. Property damage (aggregate)	\$1,000,000

- B. The insurance required by the City of Wauwatosa is primary coverage for incidents which may occur on City property or to City employees during the event, and any insurance or self-insurance maintained by the City of Wauwatosa, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss. All insurance shall be in full force prior to commencing the event and remain in force throughout the entire event, including the cleanup period after the event.
- C. The certificate of insurance shall be satisfactory proof of insurance of said policies and shall be filed at the City Attorney's Office for the City of Wauwatosa a minimum of five (5) days prior to the scheduled event.
- D. A copy of the certificate of insurance may be accepted by facsimile transmission or an email attachment with the original to be received no later than three (3) days prior to the event. The event shall not be allowed to proceed without submission of insurance documentation. The City's act of receiving and retaining proof of insurance information without comment shall not be considered acceptance, waiver, or modification of any term or requirement herein, or any applicable law.

Section 7.50.120 - Event Cancellation or Suspension

The City Administrator, or his designee, may cancel or suspend a Special Event regardless of whether or not a permit has been issued, without prior notice for any significant change in conditions which would or may adversely affect the public health or safety of the community, or for any condition that would place facilities, grounds, or other natural resources at risk of damage or destruction if the event were permitted to take place. Any Special Event permit applicant aggrieved by a decision of the City staff with respect to cancellation/suspension of an application, imposition of conditions or determination of the extraordinary fees may, upon written request to the City Clerk, have the decision reviewed by the Government Affairs Committee of the Common Council prior to an events scheduled date. Such review and determination of the Committee shall constitute final action.

Section 7.50.130 Penalties

- A. In addition to other potential fines, penalties, and/or charges as described in the Wauwatosa Municipal Code, the violation of the terms of the Special Event permit shall be punishable by forfeiture of not less than \$500.00 and not more than \$1,000.00. Each day of violation shall be considered a separate offense. In addition, the City may enforce this section by way of immediately revoking the permit, seeking injunctive relief, and all other remedies available at law and in equity.
- B. The penalties set forth herein shall also apply to all persons, organizations, and entities that organize events which are required to obtain a Special Event permit but fail or refuse to do so. If any person violates any provision of this Ordinance, the City shall have the authority to institute the appropriate legal action or proceedings to ensure compliance and to thereby prohibit such person from violating these conditions.
- C. The failure to obtain a Special Event permit before holding or conducting a Special Event, or the failure to abide by Special Event permit requirements, will constitute a violation of this section and may result in the termination of the event, denial of future permit applications, and/or issuance of a City Ordinance citation.

Section 7.50.140 - Severability

If any provision of this Ordinance or application thereof to any person or circumstances be held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected. The City of Wauwatosa reserves the right to amend or repeal this Ordinance at any time upon proper notice; and all rights, privileges and immunities conferred by this Ordinance or by acts done pursuant hereto shall exist subject to such power.

Part II. This ordinance shall take effect on and after its date of publication, and shall apply to events scheduled on or after January 1, 2018.

Passed and Dated June 20, 2017

Carla A. Pederman
City Clerk

Introduced: June 6, 2017

Referred to originating committee

Approved June 21, 2017

Kathleen Foley
Mayor

Adopted: June 20, 2017

Page:

Journal: 113