

ORDINANCE NO. 6582

AN ORDINANCE ADOPTING A NEW CHAPTER 12.72 OF THE ABERDEEN MUNICIPAL CODE RELATING TO THE PERMITTING OF PUBLIC FESTIVALS AND PARADES, REPEALING CHAPTER 5.44 OF THE ABERDEEN MUNICIPAL CODE AND ORDINANCE 5441.

WHEREAS, on May 13, 2015, the city council adopted the recommendation of a Public Safety Committee Report that the city’s current “Parade Permit” ordinance be replaced with an ordinance designed to deal with all manner of public events held on city property and rights of way; **NOW, THEREFORE**,

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ABERDEEN:

SECTION 1. NEW CODE CHAPTER ADOPTED. The following Chapter 12.72 relating to Festival Events is hereby added to the Aberdeen Municipal Code:

12.72.010 Purpose

It is the purpose of this chapter to promote Festival Events on the public properties and rights-of-way of the city by providing a uniform permit process to assist sponsors and city staff in planning and allocating available city resources. Conditions in Festival Events permits are imposed in the interest of public health, safety and welfare; to provide for fees and charges as authorized by the city council; and to administer the permit process. Nothing contained in this chapter or any procedures adopted hereunder is intended to be or shall be construed to create or form the basis for liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of the applicant or sponsor to comply with the provisions hereof.

12.72.020 Definitions

For purposes of this chapter, the following terms shall be defined as follows, unless a different meaning is expressly stated:

- A. "Applicant" means the individual who completes the application and who shall act as primary contact for the event.
- B. "Director" means the Parks and Recreation Director or the Director’s designee.
- C. "Festival event" means an event held in a fixed location on city property or city right-of-way, which the general public may attend, and any activity in a non-fixed location associated with the event such as a parade, walk-a-thon, or run-a-thon. Festival Events

include arts and craft shows, carnivals, circuses, dances, entertainment activities, exhibitions, fairs, flea markets, parades, rallies, shows, or other similar events. Not included in this definition of Festival Events are events exclusively involving political or religious activity or events intended primarily for the communication or expression of ideas where no vendor activities are involved and which are protected under the First and Fourteenth Amendments. Also not included in this definition of Festival Event are requests for road or sidewalk closures associated with traffic safety or pedestrian safety related to an event held on private property where no vendor activities on public property are involved.

C. "Nonprofit vendor" means any person, firm or organization who sells goods and services at a Festival Event and who has active status registration with the Washington Secretary of State as a nonprofit corporation.

E. "Permit" means the permit issued by the Parks & Recreation Director or the Director's appointed designee pursuant to this chapter.

F. "Sponsor" means the group who is listed on the permit application as the responsible party for the event.

G. "Qualified nonprofit event sponsor" means a sponsor who has an active status registration with the Washington Secretary of State as a nonprofit corporation.

H. "Vendor" means any individual, firm, or organization who sells goods or services at a Festival Event, including but not limited to concessions, food counters, and booths for the sale of crafts, memorabilia, souvenirs, services, or other similar items.

12.72.030 Permit required

A. Any person or group desiring to conduct or sponsor a Festival Event on city property or city rights-of-way, other than Festival Events conducted entirely within a city park under the jurisdiction of the Aberdeen Parks Board, shall first apply for a Festival Event permit under this chapter. Applications should be submitted at least ninety (90) days prior to the proposed date of the Festival Event to allow adequate time for event planning. The Director shall issue or deny a permit within thirty (30) days from the date a complete application is received.

B. Any person or group desiring to conduct or sponsor a Festival Event in a city park under the jurisdiction of the Aberdeen Parks Board shall comply with all regulations and permit requirements established by the Parks Board. A Festival Event permit under this chapter shall also be required for Festival Events that do not take place entirely within a city park under the jurisdiction of the Park Board. The Director, with the approval of the Park Board, may issue a consolidated Festival Events permit under this chapter that incorporates the permitting requirements adopted by the Park Board.

12.72.040 Permit duration

A Festival Event permit issued under this chapter shall be valid only for the time period approved by the city and vests no permanent rights in the applicant. A single permit may cover multiple events associated with a licensed business or non-profit in the same calendar

year where each event is for the same activity. Single permits issued for multiple events may be revoked under AMC 12.72.110 or by providing 90 days written notice to the event sponsor by personal service or by certified mail at the address specified by the permittee in the application.

12.72.050 Administration

A. The Director shall establish a Festival Event permit application form, process, and approval/denial criteria; and publish such forms, process and criteria on the city's website. The criteria for approval/denial shall be reviewed and approved by the Police and Fire Departments prior to adoption by the Director. The process for approval/denial of individual permit applications shall include an opportunity for review and comment by all city departments.

B. The Director may approve, deny, modify, or condition an application for a Festival Event permit.

12.72.055 Appeal of denial or revocation of permit

Any sponsor aggrieved by the action of the Director in refusing to issue any permit or revoking a permit issued under this chapter shall have the right to appeal the Director's action to the Aberdeen City Council, or such other hearing body or officer as may be designated by the City Council, by filing a notice of appeal with the Finance Director within ten (10) calendar days of issuance of notice of the denial or revocation. Any appeal shall be accompanied by a statement indicating the grounds for such appeal. The hearing body or officer shall set a date for hearing such appeal, to take place within twenty (20) calendar days of the date of receipt of the notice of appeal, unless the appellant agrees to a longer time frame. If the twentieth day falls on a weekend or holiday, the next business day would be the final day for holding a hearing. At such hearing the appellant and other interested persons may appear and be heard, subject to rules adopted by the city council or the hearing body. The hearing body or officer shall render its decision on the appeal within ten (10) business days following the close of the appeal hearing. The decision of the hearing body or officer is final.

12.72.060 Conditions authorized and additional permits

A. The Director may include in a Festival Event permit, among other provisions, reasonable terms or conditions as to the: (1) time, place and manner of the event; (2) compliance with health and sanitary regulations; (3) provision of emergency services, security, and other services deemed necessary by the city for health, safety, and welfare purposes; and (4) payment of or reimbursement for city costs associated with the event.

B. In addition to the reasonable terms and conditions that may be included in a Festival Event permit, a Festival Event permit shall ensure that:

1. No fee may be charged nor donations solicited for admission to a Festival Event located on City properties or rights-of-way or any entertainment venue at the event located on

City properties or rights-of-way. This condition does not prevent the event sponsor from collecting vendor fees and charges, or allowing the sale of goods and services at the event, or soliciting or allowing the solicitation of donations for support of non-profit organizations in a manner such that the solicitation would not reasonably be construed by the general public as a charge or donation for admissions.

2. The event sponsor is responsible for all equipment set-up and take-down, litter and garbage clean-up and disposal at the event venue, and prompt removal of all event equipment and site clean-up at the end of the event.

3. No stakes, pegs, or other affixed hardware may be placed into city property or rights-of-way unless such activity is allowed under the Festival Event permit.

4. The sponsor of a Festival Event shall make provision for the free exercise of speech at the event. If the sponsor intends to impose any manner and location restrictions on the free exercise of speech at the event the restrictions must be submitted in writing with the application and must include a statement as to how the free exercise of speech will be accommodated. Any manner and location restrictions imposed by the sponsor must comply with those clearly set forth in the permit.

5. Each Festival Event sponsor at which food is sold or served shall propose a method of notifying event vendors and attendees that only service animals are allowed in areas where food is prepared and served. Sponsors will be presumed to have provided adequate notice by prominently placing in or adjacent to all areas where food is sold or served signs which state “No animals other than service animals allowed in food sales, serving, and preparation areas.”

C. The city may condition any event permit on a requirement that the permittee give written advance notice of the event and its probable impact to the general public and any property owners or tenants adjacent to the event location or any event venue.

D. Additional permits and licenses may be required for Festival Events to meet the conditions established by the permit or other city, county, and state codes, including food permits and business licenses for vendors.

12.72.070 Fees and charges

The Festival Event permit is for the use of city property and the provision of city services associated with the event. Any person, firm or organization who sponsors a Festival Event within the city must also:

A. Pay all city property usage fees in accordance with applicable code or fee schedules adopted by city council resolution.

B. Obtain all applicable permits and licenses required by Aberdeen Municipal Code and pay associated fees in accordance with the code.

C. Apply for city utility services in advance of the event and pay associated usage charges and fees in accordance with city utility billing policies and practices. Pay the city’s commercial customer fees for city utility services provided to the event.

D. Reimburse the city for actual costs of city personnel, services and supplies required as a direct result of the sponsor's failure to comply with permit conditions for the event within 45 days of the date of issuance of invoices for such by the city.

E. Pay taxes, as applicable to the event, in accordance with city and state regulations.

12.72.080 Waiver of fees and charges

The Director may waive all or any portion of the following fees and charges for an event sponsor if in the Director's opinion support for the event will not cause a significant disruption in the delivery of normal city services and the event is of sufficient public benefit to warrant the expenditure of city funds without reimbursement by the sponsor:

A. The actual cost of city personnel for services incurred on behalf of the event during regular work hours.

B. Incidental city costs for supplies, mileage and vehicle maintenance that are not included in the ordinary rate for city utility services.

C. The fees for solid waste collection services provided to the event by the city if the sponsor files a recycling plan with the event application, said plan is approved by the city, and the event sponsor makes a good faith effort to implement the approved plan.

The Director's decision to deny a requested waiver of fees or costs may be appealed under AMC 12.72.055. In the alternative, the Director may directly submit requests for waivers to the city council for approval. The Director should take reasonable steps to determine the approximate cost of all city services provided to events without charge.

12.72.090 Hold Harmless

As a condition to the issuance of any permit under this chapter, the sponsor shall agree to defend, indemnify and hold harmless the city, its officers, employees and agents, for any and all suits, claims or liabilities caused by, or arising out of any use or activity authorized by any such permit.

12.72.100 Insurance requirements

The sponsor shall provide general liability insurance naming the city as an additional insured. Limits of coverage will be determined by the city's risk manager. Certificates of insurance are to be submitted to the city for approval prior to the issuance of the Festival Event permit. Acceptability of insurance is subject to approval by the city's Finance Director or the city's designated risk manager.

12.72.110 Revocation of permit

Any permit issued under this chapter may be summarily revoked by the city at any time when, 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 summarily revoke any permit issued pursuant to this ordinance if the city finds that the permit has been issued based upon false information or

when the permittee exceeds the scope of the permit or fails to comply with any condition of the permit. Notice of such action revoking a permit shall be delivered in writing to the event sponsor by personal service or by certified mail at the address specified by the permittee in the application.

SECTION 2. CODE SECTION REPEALED. Ordinance 5441, as amended by Ordinance 5688, codified as Chapter 5.44 AMC, is hereby repealed.

SECTION 3. SAVINGS CLAUSE. Chapter 5.44 AMC, which is repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance and shall remain in force and apply to all applications made and permits issued prior to the effective date of this ordinance.

SECTION 4. SEVERABILITY. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

SECTION 5. PUBLICATION BY SUMMARY. The Finance Director is authorized and directed to publish the attached summary in lieu of this ordinance.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately following its passage, signing, and publication.

PASSED and APPROVED this 28th day of October, 2015.

ATTESTED:

Bill Simpson, Mayor

Kathryn Skolrood, Finance Director