

TO: Honorable Mayor and Members of the Common Council

FROM: Lynn A. Lorensen, City Attorney

DATE: November 23, 2009

RE: Revised Draft Special Events Ordinance

An initial draft of a Special Events ordinance was previously sent to you as well as to the persons and entities that organize Special Events in the City. After this distribution, staff held a public meeting and received comments from a number of organizers and members of the community. Based upon the comments received, and an additional meeting with the staff working group to discuss potential changes to the draft Ordinance, I am enclosing a second draft of the Special Events Ordinance for your review.

We will be scheduling at least one further meeting with Special Event stakeholders in early December to refine the terms of this Ordinance. Continued receipt of comments and concerns about this proposed Ordinance from the Council and others in the community are critical to the effectiveness and usefulness of any final product. Staff believes that further adjustments will be necessary to ensure that the Ordinance achieves the Council's goals in this matter.

Not all comments and concerns that we received were incorporated in the enclosed second draft. In some cases this is because it was felt at this time that the comments conflicted with the direction given staff by Council, but also because some of the individual organizer comments may not be consistent with a uniform ordinance that applies to all. In any event, the changes reflected in this second draft are as follows:

1. The word "sponsor" has been deleted throughout and has been replaced with "organizer." It was correctly pointed out by several people that most events have sponsors such as the Community Foundation, or businesses, or food and beverage providers, and use of

that term in the proposed ordinance would have inadvertently had sponsors acquiring responsibility for the Special Event. This was never the intention, so it has been corrected.

2. Page 2, paragraph A.1.: now includes clarifying language excluding normal park shelter rentals from the definition of a Special Event.
3. Page 2, paragraph A: formerly had paragraph number 8 which used amplified sound as criteria for determining what is and is not a special event. Because this was overly broad, it was deleted.
4. Page 2, new paragraph above "B.": A new paragraph has been added to clarify that even though something may technically meet the definition of a special event, in some cases a permit (and corresponding comprehensive City review) may not be required.
5. Page 2-3: The definition of Extraordinary Services has been modified and, hopefully, provides clearer guidance to the Council and community what is included.
6. Page 3: The first sentence of the first paragraph has been changed to only require permit issuance before the set up or conducting of an event. The prior language was too broad as it prevented the planning, advertising, and other preparation from occurring prior to permit issuance.
7. Page 3: III.A.2. which excepts certain events from the requirement to obtain a Special Event Permit was revised. The intention of the language was to create an exception from the ordinance requirements for events wholly contained on public and private property which was specifically designed and suited to that purpose. One of the requirements to be noted was an appropriate "certificate of occupancy". This reference was removed because not all event premises have "certificates of occupancy."
8. Page 3-4, III. A.: Language was added to clarify that when determining whether events are "wholly contained" on public or private property, we would not consider legal parking on the streets, public or private lands. For example, staff would consider a traditional wedding with over 250 guests held at the Leach Amphitheater to meet the exception from the Special Event Permit requirements even though guests may park in legal parking stalls in the streets surrounding this area or in other

public parking lots. It should be noted that although this language would limit consideration of parking impacts for the purpose of determining whether the exception applies, if a Special Event Permit is required parking issues may still be considered in the review process.

9. Page 4: A new paragraph, III.D., was added to allow event organizers of longstanding events to undertake necessary planning further out than one year in advance by entering into a separate agreement with the City. The agreement would allow the event to function for a period of time under the terms of the agreement, as approved by the Council, without returning to the Council each year through the Special Event application process. The proposed language would allow the Council to vary the ordinance requirements for these events although events would still be required to meet the spirit, if not the letter, of the special events ordinance. It is recommended that the Council develop a standard length of term for those events wishing to take advantage of this provision.
10. Page 6: Paragraph B.9., related to March and Public Assembly Permit appeals changes the word "person" to "applicant." Using the word "person" may have inadvertently given someone other than the applicant the right to appeal a decision of the Chief of Police.
11. Page 8, paragraph V.F., related to the provision of security for special events previously required reimbursement of all "actual" costs for police services. New language includes only Extraordinary Costs so that it is consistent with the rest of the ordinance.
12. Page 8, paragraph V.J.: related to neighborhood notifications that may be required of event organizers previously used the "inconvenience" of resident, business, or neighborhood as a criteria. In light of the potential gray area created by the use of such a word, it was changed to address those events that may result in a substantial traffic and noise impact on the resident, business, or neighborhood.
13. Page 8-9: Paragraph VI. A., the last sentence related to holding dates for recurring events was added to include language reflecting the potential existence of separate agreements between the City and event organizers.

14. Page 11: New paragraph "B.", provides enabling authority for the Council to pass a resolution each year that sets forth approved fees/charges for Extraordinary Services by the City. Several persons commented that it was difficult to determine the potential costs for events and that costs may vary depending upon the particular individuals who provided overtime services. Staff was requested by several event organizers to provide a listing of services and costs that might be updated yearly. Staff felt that it would be possible to standardize and publish the anticipated costs. It was felt that by bringing these costs through the Council annually, it would allow the Council and the public the opportunity to recognize those costs and for the Council to establish a standard related to charging of those costs that would be applied equally to all events. It would also allow the Council the opportunity to determine whether charges for certain items might be wholly or partially waived as a class. For example, the Council might determine through this Resolution to waive costs for delivery of barricades for all block parties or all parades. All similarly situated events would then be treated the same and would more easily be able to determine the costs applicable to their event.
15. Page 14-15, paragraph VII. D.: relating to fees and reimbursement schedules for events, a new paragraph was added providing considerations for the Council, and the City Manager when making his recommendation to the Council, to consider when reviewing requests to waive application fees and costs for Extraordinary Services.

SPECIAL EVENTS, MARCHES, AND PUBLIC ASSEMBLIES

I. PURPOSE:

The City of Oshkosh 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.

The City also recognizes that Marches and Public Assemblies held for the purpose of conveying messages protected by the Constitution play an important role in enhancing the public life of citizens as well as the interrelationship between citizens and their government. To that end, the City will similarly review requests to hold Marches and Public Assemblies in the context of the safety and welfare of the community and the availability of resources, but will do so in an expedited and abbreviated manner to ensure that those wishing to hold and/or participate in such events may do so without unreasonable delays or restrictions.

II. 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 Manager, or their designee, shall have the exclusive authority to determine whether or not an event meets the definition of “Special Event.”

1. Exclusive use of all or part of waterways, or City or County-owned facilities, within the City boundaries such as buildings, parks, open spaces, streets, parking lots, athletic fields, etc., but does not include normal park shelter rentals;
2. Will involve the closing of a public street, alley, or public right of way;
3. Over 250 people at any one time attending the event on private property, except those situations meeting the definition of a “public assembly;”
4. Temporary installation or construction of structures, including but not limited to tents;
5. City ordinances and rules require public safety support by City employees;
6. Will require Extraordinary Services by any City Department;
7. Hours of the event extend beyond those otherwise adopted in City ordinances; or,
8. Alcohol, beverages, food, and/or merchandise will be offered.

Examples of Special Events include but are not limited to activities such as running/jogging/walking events, boat, bicycle, running or road races and other forms of competition and athletic events, music, theater, film performances or concerts, water ski demonstrations, air shows, carnivals, equipment shows, cultural events such as art fairs, antique shows, religious services, classes, meetings, parties, and other gatherings meeting the above criteria. A Special Event is not intended include events such as a family gathering; nonprofit organization, business, or company picnic; or other similar events unless other criteria listed above apply.

Although an event may meet the definition of a Special Event listed above, the event organizer may not need a Special Event Permit. The above criteria will be considered in conjunction with the following section entitled “Permit Required” to determine which events will require a Special Events Permit.

- B. “City property” includes all municipal buildings, parks, beaches, athletic fields and complexes, streets and other rights of way, parking lots, boating and docking facilities, and any other property owned, leased or controlled by the City of Oshkosh.
- 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 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. “March” means a group of persons, of any number, moving from one place to another on a public way or public place, which requires a street closing or otherwise requires police officers to stop, reroute, or alter the normal flow in of vehicular or pedestrian traffic because marchers are unlikely to comply with traffic regulations and controls. A march is for the purpose of conducting activities which are protected by the Constitution. All circumstances which do not meet the specific definition of a March will be reviewed as a Special Event.
- E. “Public Assembly” means an organized public gathering or group of persons, of any number, which is reasonably anticipated to obstruct the normal flow of vehicular or pedestrian traffic upon a public way or the normal use of a public place because those assembled will not comply with the traffic regulations or controls, or with other public place use laws or policies, and will be located in one place, but does not meet the definition of a march. A public assembly is for the purpose of conducting activities which are protected by the Constitution. All circumstances which do not meet the specific definition of a Public Assembly will be reviewed as a Special Event.

III. PERMIT REQUIRED:

No person or entity acting as an event organizer shall set up for, hold, or conduct a Special Event, March, or Public Assembly within the municipal boundaries of the City of Oshkosh without first obtaining a Special Event, March, or Public Assembly permit. Due to the nature of March and Public Assembly events, their review process will differ in some ways from Special Events as noted throughout this Ordinance. Any differences in the requirements that apply to Special Events, or Marches and Assemblies will be as noted herein. The City Manager, or their 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, March and Special Assembly. Special Event, March, and Public Assembly permits are temporary in nature, and do not vest any permanent rights. The only exceptions to the requirement that a Special Event Permit be obtained are as follows:

- A. Events wholly contained on public or private property:
 - 1. Specifically designed or suited for the Special Event, March, or Public Assembly; 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,

3. 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.

B. Funeral processions.

C. Events organized solely by the City. 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.

D. 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. New Special Event Permit applications will be required before the issuance of subsequent agreements, and may be submitted at any time prior to the expiration of an existing agreement.

IV. PERMIT REQUIREMENTS:

A. Special Events

1. 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. In lieu of the application fee, the event organizer may submit with its application a request that the fee be waived and provide in detail the reasons of financial hardship and any other reasons for such request. 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.
2. 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.
3. 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, Inspections Services, Parks, Public Works, Transportation, or Legal

departments to provide information or answer questions, or to whom City representatives may refer questions and comments from the public.

4. The following City departments will be provided with copies of the Special Event permit application for their review and comment: City Manager, Police, Fire, Health, Inspection Services, Public Works, Parks, Transportation, and Legal. 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 Manager that they recommend the approval or denial of the Special Event permit as requested, approval of the permit 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 the City Manager with their best estimate of the cost of extraordinary services which may be necessary for the event.
5. 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 of the Special Event permit.
6. 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.

B. March and Public Assembly Permits

It shall be the policy of the City of Oshkosh to review permit applications for Marches and Public Assemblies solely on the basis of their effect on the Health, Safety, and Welfare of the community. The City does not discriminate against any particular group or type of speech expected to be present when reviewing and acting upon any March and/or Public Assembly permit application.

1. Completed written applications for any March or Public Assembly permit along with the application fee shall be filed with the City Clerk a minimum of five (5) business days prior to the proposed March or Public Assembly. Applications shall be on the form approved by the City and signed by the person or authorized representative of the entity organizing the March or Public Assembly. In lieu of the application fee, the event organizer may submit with the application form a request that the fee be waived and provide in detail the reasons for financial hardship and any other reasons for such request.
2. The Chief of Police, or designee within the Police Department, shall have the authority to take all necessary action regarding the March or Public Assembly permit application, including the approval or denial of the application. Applications shall be reviewed and approved as submitted, denied as submitted, approved with conditions, or tentatively approved within two (2) business days after the application is submitted.

3. Tentative City approval may be given within the response period for circumstances which involve property or right of way controlled by other persons or governmental entities, such as circumstances involving right of way or property controlled by the State of Wisconsin.
4. During the review of the application, the Chief of Police may consult with all persons reasonably necessary and available for such consultation, including the event organizers and all other persons, entities, agencies, and governmental officials deemed necessary by the Chief in order to make an informed decision regarding the application's effect upon the health, safety, and welfare of the community.
5. March and Public Assembly permit applications shall be reviewed for their effect upon traffic control, public safety, as well as other considerations affecting the public health, safety and welfare including the date, time, location and/or route, police and fire protection necessary, and sanitation provisions required. The application review will also include analysis of the organizer's plans to reasonably ensure that participants/attendees will also comply with all applicable laws.
6. The City's decision related to March and Public Assembly permit applications shall include a requirement that the application fee be paid or that the fee is waived, a requirement that the costs for Extraordinary Services be paid by the organizer(s) or that the costs are waived, and a requirement that any other condition(s) allowed by law and which are necessary to ensure the health, safety, and welfare of the community shall be incorporated into the terms of any approved permit.
7. In those circumstances in which it is determined that costs for Extraordinary Services shall be paid by the organizer(s), the Chief of Police shall have the authority to require that some or all of the estimated costs for such services be paid to the City in advance or deposited in an approved escrow account for the purpose of paying for such costs, or to require that another form of security be submitted by the organizer(s) for the purpose of paying for such costs.
8. Before any March or Public Assembly permit is denied in whole or in part, the Chief of Police shall make all reasonable efforts to discuss with the applicant the proposed event and its effect upon the public safety, and shall provide or suggest to the applicant reasonable alternative dates, times, locations, or other terms, conditions, and parameters of the March or Public Assembly, to the extent that any such alternatives, terms, or conditions may be reasonably carried out while protecting the public's health, safety, and welfare.
9. Any applicant seeking to appeal the decision of the Chief of Police shall make such appeal, in writing, to the City Manager, or designee. The City Manager, or designee, shall meet with the Chief of Police and the applicant within three (3) business days after receiving an appeal. Legal counsel and other persons with relevant factual information may participate in this appeal meeting. The City Manager, or designee, shall provide the parties with an oral decision at the conclusion of the meeting. A

written decision may be requested by either the applicant or the Chief of Police, and shall be made available by the City Manager as soon as practicable.

10. An applicant may appeal the decision of the City Manager, or designee, to the Common Council by filing a notice of appeal with the City Clerk. The Clerk shall place this issue on the agenda for the next regularly scheduled Council meeting in which legally required notice may be provided to the public.
11. The Council may affirm, reverse, or modify the determination of the City Manager, or designee, at the conclusion of the agenda item and after all interested persons have had an opportunity to be heard at the noticed public meeting.
12. Any applicant aggrieved by the decision of the Common Council may seek such other legal relief as may be available.

V. 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 11:00 p.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 or as may be directed by the Common Council within a permit approval process.
- 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 Oshkosh 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 if required by the Common Council.
- 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 sponsor shall be responsible for taking all reasonable efforts to pick up litter and refuse during the event, and for removing all litter and refuse 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 and refuse attributable to the event from the surrounding neighborhoods and properties.
- J. Notification: The Special Event organizer may be required by the City to provide reasonable advance notice to residents and/or businesses, or to neighborhoods if individual notice is impractical, who may be expected to experience a substantial traffic and/or noise impact from the event.
- K. Barricades: Barricades may be required for street closures or pursuant to a security plan. Barricades may be available for rent from the City or from private companies. 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.

VI. 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 Manager 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 Manager 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 Manager shall provide a recommendation to the Common Council regarding the Special Event permit application. 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 by the City Manager. The City Manager may also recommend to the Council that the permit fee be waived, that the costs for Extraordinary Services anticipated by the City to be necessary should be recouped from the event sponsor(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, require that the permit fee be paid or waived, 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 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 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 application fee and the Council determines that such fee should not be waived;

3. The applicant asserts that they cannot or will not pay the cost for Extraordinary Services and the Council determines that such costs should not be waived.
 4. The application for permit contains a material falsehood or misrepresentation;
 5. The applicant is not legally competent to sign a contract, or to be held responsible for its actions;
 6. 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;
 7. A Special Event permit application for the same time and place, 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;
 8. 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;
 9. 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;
 10. 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.
 11. 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 and Alterations of Mapped Routes. Routes for Special Events such as parades must be submitted with the permit application. Proposed Routes may be altered at the discretion of 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.

VII. FEES AND REIMBURSEMENT SCHEDULE

A non-refundable administrative fee is required for all Special Event, March, and Public Assembly permit applications. Permit applications may include a request to waive the application fee. However, permits shall not be issued unless the fee is paid or it is specifically waived by the Council. 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. Permit Fees:

1. Special Event, March, and Public Assembly Permits (non-refundable)

- a. Multiple day event (consecutive or recurring)
Liquor license required: \$200.00
- b. Multiple day event (consecutive or recurring)
No liquor license required: \$150.00
- c. Single day event
Liquor license required: \$100.00
- d. Single day event
No liquor license required: \$ 50.00

2. All other required charges and/or fees, including but not limited to facility rental, food and beverage sale permits, temporary structure fees, and equipment rental fees, etc., must be paid in addition to the permit application fee. Submittal of a permit application does not reserve a park or any other City facility, property, or services necessary for the event.

3. Applicants for Special Events, March, or Public Assembly permits may include in their initial submission a request that the permit administrative fee be waived due to substantial financial hardship.

B. Extraordinary Services Charges

The Common Council shall approve by Resolution each year a list of 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. The Resolution may

provide for standard hourly charges or flat fee charges for services provided, and may specify tasks that may or may not be subject to Extraordinary Service charges.

C. Extraordinary Services Reimbursement:

1. Special Events

- a. 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 Clerk the actual cost of all Extraordinary Services provided by the City. 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. This fee shall be paid to the City within thirty (30) days of the date an itemized invoice for the same is prepared and mailed by the City at the conclusion of the Special Event.
- b. Prior to any approval of a Special Event permit, the Police and Fire Departments, along with all other departments potentially affected by the proposed Special Event, shall review the application and report to the City Manager 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.
- c. After reviewing the findings of the City departments, the City Manager may recommend to the Common Council that conditions relating to advance payment or reimbursement of the costs for Extraordinary Services be placed upon the Special Event permit if approved. Alternatively, the City Manager may recommend that payment or reimbursement of some or all of the costs for Extraordinary Services to be provided be waived.
- d. The Common Council shall address the issue of Extraordinary Services before or at the time it takes action on a Special Event permit application. The Council may address the issue of Extraordinary Services through one or more of the following actions:

- i. The Council may require that event organizers pay all actual costs for Extraordinary Services provided by the City for the event, with the total costs incurred to be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- ii. The Council may require the event organizer(s) pay less than the actual costs for Extraordinary Services provided by the City in an amount to be determined by the Council depending upon the unique circumstances of the event, with the remaining actual costs to be waived. Any amounts required to be paid shall be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- iii. The Council may waive all costs for Extraordinary Services provided by the City for the event.
- iv. In the event that the Council requires that the event organizer(s) pay some or all of the costs for Extraordinary Services provided by the City for the event, then the Council may require that funds be placed in escrow, or other necessary security be provided, before the permit is issued. The amount of the cash deposit or other security shall be based upon the cost estimate of the Extraordinary Services which may be incurred. The Special Events permit shall not be issued until the event organizer(s) have complied with any requirements for security.
- v. Security for the estimated costs of Extraordinary Services may be in the form of a cash deposit in an escrow account, bond, letter of credit, or similar instrument, with the type and form of the instrument to be at the discretion of the City.
- vi. If the actual costs for Extraordinary Services exceeds the security provided and has not otherwise been waived by the Council, then the difference shall be billed to and paid by the event organizer(s). If the actual costs for Extraordinary Services provided is less than the amount of funds deposited in advance of the event, then any unused amounts must be returned to the event organizer(s) within a reasonable time after the event concludes. Any other security instrument must be either used or released by the City within a reasonable time after the conclusion of the event

2. Marches and Public Assemblies

The City, through the Chief of Police, shall address the issue of costs for Extraordinary Services before or at the time final action is taken on a March and Public Assembly permit application. Extraordinary Services will generally consist of vehicular and pedestrian traffic control and of efforts to ensure the safety of persons and property in crowded and/or potentially volatile situations.

- a. The City may require that event organizers pay all costs for Extraordinary Services provided by the City for the event, with the total costs incurred to be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- b. The City may require the event organizer(s) pay less than the costs for Extraordinary Services provided by the City in an amount to be determined by the Chief of Police depending upon the unique circumstances of the event, with the remaining actual costs to be waived. Any amounts required to be paid shall be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- c. The City may waive all costs for Extraordinary Services provided for the event.
- d. In the event that the City requires that the event organizer(s) pay some or all of the costs for Extraordinary Services provided by the City for the event, then the City may require that funds be placed in escrow, or other necessary security be provided, before the permit is issued. The amount of the cash deposit or other security shall be based upon the cost estimate of the Extraordinary Services which may be incurred. The Special Events permit shall not be issued until the event organizer(s) have complied with any requirements for security.
- e. Security for the estimated costs of Extraordinary Services may be in the form of a cash deposit in an escrow account, bond, letter of credit, or similar instrument, with the type and form of the instrument to be at the discretion of the City.
- f. If the actual costs for Extraordinary Services provided exceed the security and has not been waived by the Chief of Police, then the difference shall be billed to and paid by the event organizer(s). If the actual costs for Extraordinary Services provided is less than the amount of funds deposited in advance of the event, then any unused amounts must be returned to the event organizer(s) within a reasonable time after the event concludes. Any other security instrument must be either used or released by the City within a reasonable time after the conclusion of the event.

D. Considerations for Reviewing Application Fees and/or Extraordinary Costs

The Common Council will review applications for waivers of application fees, as well as recommendations from the City Manager relating to the assessment or waiver of City costs for providing Extraordinary Services based upon relevant and lawful criteria. The Council 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 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;
10. The financial condition of the event organizer(s).

VIII. INDEMNIFICATION AND HOLD HARMLESS

Organizers of Special Events, Marches, and Public Assemblies shall be required to sign an agreement in a form acceptable to the City in which they agree to indemnify the City of Oshkosh, 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.

IX. INSURANCE

All Special Event organizers shall procure at their expense, a policy of insurance subject to the City's minimum requirements for Special Events.

The insurance required by the City of Oshkosh 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 Oshkosh, 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 clean up period after the event.

The certificate of insurance shall be satisfactory proof of insurance of said policies and shall be filed at the office of the city clerk for the City of Oshkosh a minimum of five (5) days prior to the scheduled event. 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.

X. EVENT CANCELLATION

The City Manager in the case of a Special Event, or the Chief of Police in the case of a March or Public Assembly, may cancel a Special Event, March, or Public Assembly, regardless of whether or not a permit has been issued, without prior notice for any significant change in conditions which would or may adversely affecting the public health or safety of the community, or for any condition that would place facilities, grounds, or other nature resources at risk of damage or destruction if the event were permitted to take place.

XI. PENALTIES

In addition to other potential fines, penalties, and/or charges as described in the Oshkosh Municipal Code, the violation of the terms of the Special Event, March, or Public Assembly 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.

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.

The failure to obtain a Special Event permit before holding or conducting a Special Event, or the failure to abide by Special Event, March, or Public Assembly permit requirements, will constitute a violation of this section and may result in the termination of the event, denial of future permit applications, or issuance of a City Ordinance citation.

XII. 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 Oshkosh 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.