

## ORDINANCE 144,4d

Introduced by Councilor Baker

### AN ORDINANCE OF THE CITY OF ALBERT LEA, MINNESOTA REPEALING CHAPTER 50, ARTICLE IV – PARADES AND REPLACING IT WITH ARTICLE IV – SPECIAL EVENTS

#### THE CITY COUNCIL OF THE CITY OF ALBERT LEA ORDAINS:

Sec. 1. That Chapter 22, Article IV, Sections 50-131 through 50-134 of the Code of Ordinances, City of Albert Lea, Minnesota are hereby repealed and replaced to read as follows:

#### ARTICLE IV. - SPECIAL EVENTS.

##### Sec. 50-131. Purpose.

It is the purpose of the city council to regulate the time, place and manner of special events when the event's impact upon the health, sanitary, fire, police, transportation and utility services exceeds those regularly provided to that property. This section is enacted in order to promote the health, safety and welfare of all residents and visitors of the city by ensuring that special events do not create disturbances, become nuisances, menace or threaten life, health or property, disrupt traffic or threaten or damage private or public property. It is not the intent of the city council by enacting this section to regulate in any manner the content of speech or infringe upon the right to assemble, except for regulating the time, place and manner of speech and assembly and this section should not be interpreted or construed otherwise.

##### Sec. 50-132. Definitions.

For the purposes of this ordinance, the following terms shall have the meanings given to them unless the context clearly indicates another meaning:

**Special Event** means any concert, parade, fair, show, festival, carnival, rally, party, filming of a movie, video or television show, motorcade, run, street dance, bike-a-thon, race, walk or athletic event or other attended entertainment or celebration that is to be held in whole or in part upon publicly owned property or public right-of-way, or, if held wholly upon private property, will require the use of Special Services; and

**Special Services** means the exclusive allocation of city resources, including, but not limited to, city personnel, equipment, rights-of-way, property or facilities for use in conjunction with a specific event or activity, as requested by the host or sponsor of the event, or as requested by or on behalf of any person attending the event, or deemed necessary by city staff in order to maintain public safety. Special Services shall include, but not be limited to, any of the following: street closures; requiring police officers to stop or reroute traffic; special police protection; stationing emergency vehicles at or in the immediate vicinity of the event; exclusive use of city streets as a staging area or for

event parking; additional street cleaning and garbage removal services; special signage, such as temporary no parking signs; the use of any city building, equipment or other property for any purpose other than the normal daily operations of the city; or the city otherwise providing exclusive services.

**Sec. 50-133. Permit Required; Exceptions.**

1. Any person or organization desiring to hold a Special Event in the city must first obtain a Special Event permit from the city in addition to any other permits required for the event by state law or city ordinance.

The following are exempt from the permit requirements:

- a) Wedding ceremonies and receptions, funeral ceremonies and funeral processions; unless special services are needed.
- b) Any event attended by fewer than 200 persons at one time which does not require any Special Services and does not involve the sale of alcohol;
- c) Any event that is otherwise regulated by the city through the use of another regulatory manner, such as an interim use permit or conditional use permit; and
- d) The use of traditional public forums as alternative channels of communication by the public, provided that such use is for the free exercise of constitutionally protected activities and does not disrupt or interfere with traffic on public streets or the use of public places by other members of the public.

**Sec. 50-134. Permit application.**

1. **Form.** Application for a permit to hold a Special Event must be made in writing and must contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and must be signed and sworn to or affirmed by the individual making application in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society or group, or, if there are no officers, by all members of such association, society, or group. The application must contain and disclose the following:

- a) Applicant name, address, phone number;
- b) Date of proposed Special Event;
- c) Address of proposed Special Event;
- d) Name of property owner, if different from applicant;

- e) Type and description of the Special Event and a list of all activities to take place at the Special Event;
- f) Estimated number of persons to attend;
- g) Duration of the Special Event, including beginning and ending times;
- h) Any public health plans, including supplying water to the site, solid waste collection and provision of toilet facilities, if applicable;
- i) Any fire prevention and emergency medical services plans, if applicable;
- j) Any security plans, if applicable;
- k) The admission fee, donation or other consideration to be charged or requested for admission, if applicable;
- l) Whether food or alcohol will be served or sold at the event;
- m) A detailed description of all public rights-of-way and private streets for which the applicant requests the city to restrict or alter normal parking, vehicular traffic or pedestrian traffic patterns, the nature of such restrictions or alterations, and the basis;
- n) A description of any services, city personnel, city equipment and city property which the applicant requests the city to provide, including the applicant's estimate of the number and type needed, and the basis on which the estimate is made;
- o) Whether any sound amplification or public address system will be used or if there will be any playing of any music or musical instruments;
- p) A statement signed by the applicant either agreeing to pay all fees and meet all other requirements of this section, or representing to the city that the applicant is duly authorized to make such agreement on behalf of the person or organization holding or sponsoring the Special Event;
- q) Applicant signature and property owner's signature, if different from applicant; and
- r) Any other information requested by the city, acting through its city manager or chief of police deemed reasonably necessary in order to determine the nature of the Special Event and the extent of any Special Services required.

2. **Time for Filing.** A Special Event permit application must be filed with the city at least 30 days in advance of the date in which the Special Event is to occur.
3. **Permit Fee.** An applicant for a Special Event permit must pay a nonrefundable permit fee in the amount established from time to time by the city's fee ordinance.

**Sec. 50-135. Permit Review.**

1. Upon receipt of a Special Event permit application, the city manager or designee shall be responsible for promptly processing the application, including conferring with department heads and the applicant as necessary to implement the provisions of this section, and, when required by this section, forwarding the processed application to the city council with a recommendation to approve, approve with conditions or modifications, or deny the special event permit application.
2. **Special Services.** The city manager shall promptly distribute copies of the application for review by the head of each department in cases where Special Services are requested or will be necessary. Each such department head shall review the application and evaluate the Special Services and shall report to the city manager, with a recommendation that application and the requested Special Services be approved, approved with conditions or modifications, or denied. Each department head shall also provide the city manager with a cost estimate for the Special Services associated with his or her department.
3. **Review.** When a Special Event will not require any Special Services or does not require a significant amount of Special Services, the city manager may review the permit application administratively. In cases where a Special Event requires a significant amount of Special Services, the application will be presented to the city council for review. The city council may hold a public hearing on the permit application. It may also refer the permit application to the planning commission for its review and recommendation.
4. **Permit Denial.** The city may deny an application for a Special Event permit if it determines from a consideration of the application or other pertinent information, that:
  - a) The information contained in the application or supplemental information requested from the applicant is false or nonexistent in any material detail;
  - b) The applicant fails to supplement the application after having been notified by the city of additional information or documents needed;
  - c) The applicant fails to agree to abide or comply with all of the conditions and terms of the Special Event permit, including payment of all costs and expenses;
  - d) The Special Event would substantially or unnecessarily interfere with traffic in the city, would interfere with access to the fire station or fire hydrants, or would interfere with access to businesses or residences in the

immediate vicinity of the event and there are not sufficient city resources available at the time of the event to mitigate the disruption;

- e) The Special Event is of the size or nature that requires the diversion of so many law enforcement officers to properly police the event, site and contiguous areas that allowing the Special Event would unreasonably deny law enforcement protection to the remainder of the city and its residents;
- f) The proposed date and time of the Special Event conflicts with a previously scheduled event and there are not available at the time of the proposed Special Event sufficient city resources to provide services for both events without substantially or unnecessarily interfering with police, fire, water, public works or other services to the city as a whole;
- g) The location of the Special Event will substantially interfere with any construction or maintenance work scheduled to take place upon or along public property or right-of-way;
- h) The Special Event would likely endanger the public safety or health;
- i) The Special Event would substantially or unnecessarily interfere with police, fire, water, public works or other services to the city as a whole and there are not available at the time of the proposed event sufficient city resources to mitigate the disruption;
- j) The applicant fails to comply with the liability insurance requirements or the applicant's insurance lapses or is canceled;
- k) The Special Event would likely create or constitute a public nuisance;
- l) The Special Event would be likely to cause significant damage to public property or facilities;
- m) The Special Event would engage in or encourage participants to engage in illegal acts; or
- n) The applicant, responsible party or the person on whose behalf the application is submitted has on prior occasions made material misrepresentations regarding the nature and extent of Special Services required for a Special Event in the city, or has violated the terms of a prior Special Event permit.

5. **Appeal.** If the city manager denies an application for a Special Event permit, the applicant may appeal the city manager's decision to the city council. An appeal must be filed with the city manager in writing no later than 10 days from the date of the city manager's decision.

**Sec. 50-136. Permit Issuance.**

1. **Permitted Areas.** Because of the predominantly residential character of the city and the relatively small size of the commercially zoned areas resulting in the potential for conflicting uses, Special Events will be permitted within the city only after a finding by the city that the character of the proposed Special Event is compatible with the character of the surrounding neighborhood considering the possible creation of problems including noise, lighting, traffic, sanitation, congestion and other factors affecting the public health, safety and welfare of such areas in addition to compliance with all ordinances of this city and applicable statutes and regulations.
  
2. **Permit Conditions.** The city may condition the issuance of a Special Event permit by imposing reasonable conditions concerning the time, place and manner of the Special Event, and such conditions as are necessary to protect the safety of persons and property, and the control of traffic; provided that such conditions shall not unreasonably restrict the right of free speech. The city may inspect the property upon which the Special Event is to be held prior to the event in order to make certain there is compliance with all permit conditions. Such conditions may include, but are not limited to:
  - a) Alteration of the date(s), time(s), route(s) or location of the Special Event proposed;
  - b) Elimination of an activity at the Special Event which cannot be mitigated to a point as to ensure public safety and welfare, or which causes liability to the city;
  - c) Requirements concerning the area of assembly and disbanding of a parade or other events occurring along a route;
  - d) Requirements concerning the accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of the street or right-of-way;
  - e) Requirements for the use of Special Services;
  - f) Requirements for the use of traffic cones or barricades;
  - g) Requirements for the provision of first aid or sanitary facilities;
  - h) Requirements for the use of Special Event monitors and the providing notice of the Special Event's permit's conditions to the event's participants;

- i) Requirements on the number and type of vehicles, animals or structures to be allowed at the Special Event and the inspection and approval of floats, structures and decorated vehicles by the city for safety purposes;
- j) Compliance with animal protection ordinances and laws;
- k) Requirements for the use of garbage containers and the cleanup and restoration of any public property;
- l) Restrictions on the use of amplified sound, public address systems and the playing of music and musical instruments and compliance with noise ordinances, regulations and laws;
- m) Limitations on the maximum attendance;
- n) Requiring notice of the Special Event to be provided to surrounding property owners; and
- o) Restrictions on the sale or consumption of food or alcohol.

3. **Permit Issuance.** When a Special Event will not require any Special Services or does not require a significant amount of Special Services, the city manager may issue the Special Event permit administratively. In cases where a Special Event requires a significant amount of Special Services, the application will be presented to the city council for approval.

**Sec. 50-137. Special Services Fees.**

1. **Special Services Fee Deposit.** If any Special Services are to be used during the Special Event, the applicant may be required to pay a Special Services fee deposit at least five days before the Special Event. The Special Services fee deposit amount shall be determined by the city manager. It shall be based upon an estimate of Special Services that are necessary as determined by the city's department heads.
2. **User Fee.** Upon completion of the Special Event, the city may prepare a detailed account of all Special Services provided for the Special Event and in such cases, will set the final user fee using the rates, fees and charges established as provided in this section. The city will then provide the authorized and responsible person identified in the Special Event permit application with a copy of the detailed account of the Special Services and an invoice for the user fee, less the fee deposit. The balance of the user fee will then become due and payable immediately upon its receipt. The city may certify to the county any unpaid user fees relating to the property upon which the Special Event was held or, if the Special Event was held on public property, the applicant's property, which shall then be collected together with the property taxes levied against the property.

3. **Special Services Rates.** The rates charged for the use of city personnel, equipment, facilities and rights-of-way shall be set by the city's fee ordinance.

**Sec. 50-138. Indemnification Agreement.**

If the Special Event requires Special Services, prior to the issuance of a Special Event permit, the permit applicant and authorizing officer of the sponsoring organization, if any, must sign an agreement to indemnify, defend and hold the city, its officials, employees, and agents harmless from any claim that arises in whole or in part out of the Special Event, except any claims arising solely out of the negligent acts or omissions of the city, its officials, employees and agents.

**Sec. 50-139. Insurance Requirements.**

1. **Liability Insurance Required.** The applicant or sponsor of a Special Event must possess or obtain liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury or property damage arising from the Special Event. A certificate of insurance must be filed with the city prior to issuance of the Special Event permit. The certificate of insurance must name the city, its officials, employees and agents as additional insureds. Insurance coverage must be maintained for the duration of the Special Event.
2. **Minimum Limits.** Insurance coverage must be a commercial general liability policy. The minimum limits must be at least \$1,000,000. If alcoholic beverages are to be sold or distributed at the Special Event, the policy must also include an endorsement for liquor liability. The city may require additional endorsements depending upon the type of Special Event and the proposed activities. Applicants must be able to show that their liquor license may be used outside the contiguous building. Any alcohol consumed or sold must be in a confined area.
3. **Waiver or Reduction of Required Limits.** The city may waive or reduce insurance requirements of this section under the following circumstances:
  - a) The applicant or officer of the sponsoring organization signs a verified statement that it believes that the Special Event's purpose is First Amendment expression and that the cost of obtaining the insurance is so financially burdensome that it would constitute an unreasonable burden on the right of First Amendment expression;
  - b) The applicant or officer of the sponsoring organization signs a verified statement that the insurance coverage required by this section is impossible to obtain; or
  - c) The city determines that the insurance requirements are in excess of the reasonable risk presented by the proposed Special Event.

**Sec. 50-140. Compliance with permit.**

1. **Unlawful to Sponsor a Special Event without a Permit.** It is unlawful for any person to sponsor or conduct a Special Event requiring a permit pursuant to this section unless a valid Special Event permit has been issued for the event.
2. **Unlawful to exceed the Scope of the Permit.** The Special Event permit authorizes the Special Event permittee or sponsor to conduct only such a Special Event as is described in the permit, and in accordance with the terms and conditions of the permit. It is unlawful for the permittee or sponsor to willfully violate the terms and conditions of the permit.

**Sec. 50-141. Revocation.**

A Special Event permit may be revoked by the city at any time for failure to comply with the provisions of this section and conditions of the permit.

**Sec. 50-142. Enforcement.**

1. **Injunction.** The provisions of this section may be enforced by injunction in any court of competent jurisdiction.
2. **Public Nuisance.** The holding of a Special Event in violation of any provision or condition contained in this section will be deemed a public nuisance and may be abated as such. Issuance of a Special Event permit by the city does not preclude the right of an individual to pursue a private nuisance action against the applicant.
3. **Towing Authorized.** If a Special Event is held on private property and members of a Special Event have parked automobiles in violation of any provision or condition contained in this section, violators' automobiles may be tagged and towed at violators' expense.
4. **Noise.** The Special Event must be in compliance with the city's noise ordinance at all times.
5. **Misdemeanor.** Violation of any provision of this section is a misdemeanor. Violators shall be subject to a fine or imprisonment as specified by state statute. Each day in which a violation continues to occur shall constitute a separate offense. Violation of any provision of this section shall also be grounds for revocation of the Special Event Permit.

That the motion for the adoption of the foregoing ordinance was duly seconded by Councilor Kehr and upon a vote being taken thereon, the following voted in favor thereof: Councilors Schulte V, Baker, Kehr, Olson, Anderson, Brooks and Mayor Rasmussen Jr.

and the following voted against the same: None

Introduced, read the first time on January 9, 2012

Introduced, read the second time on January 23, 2012

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Mayor Vern Rasmussen, Jr.

Filed and attested to January 24, 2012

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Secretary of the Council