

Ordinance No. 6474

AN ORDINANCE regulating festival events held on property owned by the City of Olympia and rights-of-way; and adding a New Chapter 12.72 – Festival Events, to the Olympia Municipal Code.

WHEREAS, festival events create a sense of community, celebrate our culture and diversity, enhance the quality of life in our community, and can foster tourism and economic vitality; and

WHEREAS, festival events sponsored by local nonprofit agencies may provide a funding source for the agencies and clients, thereby benefiting the community; and

WHEREAS, the City of Olympia currently allows use of City properties and rights-of-way for festival events with no permit required and minimal coordination of city services and notice of the need for additional city services; and

WHEREAS, the number of festival events on City properties and rights-of-way has increased over time, impacting city services and the public streets and rights-of-way; and

WHEREAS, the increase in the number of festival events has impacted the ability for the city to effectively coordinate festival events that occur simultaneously on city property and in rights-of-way; and

WHEREAS, the City has decided to establish a process and fees for permitting the use of City properties and rights-of-ways for festival events; and

WHEREAS, regulation of the time, place and manner of festival events is necessary for the health, safety and welfare of the public;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Title 12 - Streets, Sidewalks, and Public Places. A New Chapter 12.72 – Festival Events, is hereby added to Title 12 of the Olympia Municipal Code to read as follows:

CHAPTER 12.72

FESTIVAL EVENTS

Sections:

12.72.000- Title Contents.

12.72.010 - Purpose.

12.72.020 - Definitions.

12.72.030 - Permit Duration.

12.72.040 - Temporary Nature of Permit.

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12.72.060 - Conditions authorized and additional permits.

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12.72.080 - Fees and charges.

12.72.090 - Fees and charges exempted – Qualified nonprofit event sponsor.

12.72.100 - Hold Harmless.

12.72.110 - Insurance Requirements.

12.72.120 – Revocation of Permit.

12.72.010 - Purpose.

It is the purpose of this chapter to provide for the issuance of Festival Event permits to regulate such events on the public properties and rights-of-way of the city in the interest of public health, safety and welfare; to provide for fees and charges; 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. “Festival event” means an event held in a fixed location on city property or city right-of-way that exceeds one (1) calendar day, including pre- and post-event set up and take down, 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, run-a-thon. Festival Events include arts and craft shows, carnivals, circuses, dances, entertainment activities, exhibitions, fairs, flea markets,

rallies, shows, or other similar events. Not included in this definition of Festival Events are events 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.

- 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.
- D. “Permit” means the permit issued by the city manager or appointed designee pursuant to this chapter.
- E. “Sponsor” means the group who is listed on the permit application as the responsible party for the event.
- F. “Qualified nonprofit event sponsor” means a sponsor who has an active status registration with the Washington Secretary of State as a nonprofit corporation.
- G. “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.

Any person or group desiring to conduct or sponsor a Festival Event on city property and/or city rights-of-way shall first obtain a Festival Event permit. An application for a festival event permit must be submitted at least ninety (90) days prior to the proposed date of the Festival Event.

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.

12.72.050 - Administration.

- A. The city manager or designee 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.
- B. The city manager or designee may approve, deny, modify, or condition an application for a Festival Event permit.

12.72.055 – Appeal-Denial or Revocation or Permit.

Any sponsor aggrieved by the action of the City in refusing to issue any permit or revoking a permit issued under this chapter shall have the right to appeal such to the General Government Committee of the Olympia City Council, or such other hearing body as may hereafter be established by the City Council, by filing a notice of appeal with the Council's Secretary 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 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 of the hearing body. The hearing body 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 is final.

12.72.060 - Conditions authorized and additional permits.

- A.** The city 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 and submit in writing with its application a statement as to how the free exercise of

speech will be accommodated. Any manner and location restrictions on the free exercise of speech must comply with those clearly set forth in the permit.

5. Each Festival Event sponsor at which food is sold or served shall prominently place in and adjacent to all areas where food is sold or served a minimum of three (3) signs no smaller in size than two (2) feet wide by three (3) feet high which state "No animals other than service animals allowed in food sales, serving, and preparation areas;" or shall propose in writing with its application, subject to city approval, an alternate method of how notification will be given to event vendors and attendees that services animals only are allowed in areas where food is prepared and served.
- 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 and/or other city codes.

12.72.070 - Rates established for use of City streets.

The rate for use of City streets for stationary activities of a Festival Event shall be \$50 per lineal street block, or portion of lineal street block if the entire block is not closed, per day or partial day of event operation, and shall be paid in advance of or at the time of permit issuance. Stationary event activities include but are not limited to areas for vendors, food consumption, displays, entertainment, event entryways, and supply and equipment storage.

12.72.080 - Fees and charges.

Any person, firm or organization who sponsors a Festival Event within the city must:

- A. Pay all city property usage fees in accordance with applicable code.
- B. Obtain all applicable permits and licenses required by Olympia 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 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.

12.72.090 - Fees and charges exempted – Qualified nonprofit event sponsor.

The City Manager or designee may waive the following fees and charges for a Qualified Nonprofit Event Sponsor if in his/her 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 recycling services provided to the event by the city if the sponsor files a recycling plan with the event application, said plan is approved by city, and the event sponsor makes a good faith effort to implement the approved plan.

12.72.100 - 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.

12.72.110 - 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 risk manager.

12.72.120 – 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.

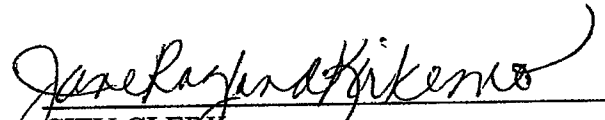
Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. If any provision of the ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances, shall be unaffected.

Section 4. Effective date. This ordinance shall take effect January 1, 2008, and after publication as provided by law.


MAYOR PRO TEM

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


INTERIM CITY ATTORNEY

PASSED: June 12, 2007
APPROVED: June 12, 2007
PUBLISHED: June 15, 2007

SUMMARY OF ORDINANCE 6474

On June 12, 2007, the Olympia City Council passed Ordinance 6474 - AN ORDINANCE regulating festival events held on property owned by the City of Olympia and rights-of-way; and adding a New Chapter 12.72 - Festival Events to the Olympia Municipal Code.

The full text of Ordinance No. 6474 may be obtained for a fee at Olympia City Hall, 900 Plum Street, SE or will be mailed upon request for a fee. Call (360) 753-8325 or write to City of Olympia, P.O. Box 1967, Olympia, WA 98507-1967.

Do not publish below this line

PUBLISH: Friday, June 15, 2007