

★ **Roll Call Number**

Agenda Item Number

46

Date June 23, 2014

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 102-1124, 102-1125, 102-1130.1, 102-1131, 102-1173 and 102-1174, relating to street use permits",

which was considered and voted upon for the first time under Roll Call No. 14- 0775 of May 19, 2014, and considered and voted upon for the second time under Roll Call No. 14- 0879 of June 9, 2014, again presented.

Moved by _____ that this ordinance do now pass.

ORDINANCE NO. _____

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor


CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

14-0879
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 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: May 19, 2014
	Agenda Item No. 29 Roll Call No. <u>14-0775</u> Communication No. <u>14-228</u> Submitted by: Richard A. Clark, City Manager

AGENDA HEADING:

Approval of amendments to Section 102 of the City Code regarding street use permits.

SYNOPSIS:

Recommend approval of amendments to Section 102 regarding street use permits including fees, barricade control plans, petition approval, buffer zones, and notices.

FISCAL IMPACT:

Amount: Increase in revenue based upon the number of events held.

Funding Source: Fiscal Year (FY) 2014-2015 Operating Budget, G001, CC001010, page 24

ADDITIONAL INFORMATION:

At the February 24, 2014 Council Workshop, staff presented recommendations to the City Council to amend Section 102 of the ordinance regarding street use permits. Recommendations include the following:

Sec. 102-1124 (b) (1) – Street Use Team

(b) The street use team may require the person or representative of the group applying for a street use permit to be present when the street use team meets regarding the application for a permit. At that time, the applicant may be required to provide any additional information that is reasonably necessary to make a fair determination.

(1) Certain events may also require the person or representative of the group applying for a street use permit to also meet with the Police Department and Traffic and Transportation staff to discuss their traffic control barricade plan and police staffing needs for the event. An additional fee for plan review may be required.

Sec. 102-1125 (a) Application

(a) Contents. A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the ~~city clerk~~ City Manager's Office and shall be filed with the ~~city clerk~~ City Manager's Office.

Sec. 102-1125 (4) Application

(4) An accurate description of that portion of the street proposed to be used, including a map, and full description of event route if applicable including street closure times.

Sec. 102-1125 (a) (7) Application

(7) After initial filing of the application, any additional information may be requested that the street use team deems reasonably necessary to make a fair determination as to whether a permit should be issued, including but not limited to a crowd control plan; and a traffic control barricade plan. These plans can be prepared by an outside contractor or the person or representative of the group applying for a street use permit. There will be an additional fee charged if city staff prepares the traffic control barricade plan.

Sec. 102-1125 (c) (1) Application

(1) For all street closure applications with planned street closures at any one location lasting more than 1 hour except events taking place entirely in a residentially zoned district, a petition is required designating the proposed areas of the street to be used and the time of the proposed use. The petition shall be signed by more than ~~50~~ 60 percent of the business owners either abutting or within a building that abuts the portion of the street to be closed for more than one hour.

Sec. 102-1125 (c) (3) Application

(3) Applications with petitions that do not have more than ~~50%~~ 60 percent approval pursuant to this section will be denied unless appealed pursuant to section 102-1133 of this division.

Sec. 102-1125 (d) Application

(d) The applicant shall provide notice of the event to all residents and commercial tenants, owners, and lessees satisfactory to the street use team; including maps, closure times, and contact information.

Sec. 102-1130.1 Buffer zone

(a) A street use permit shall not be granted when the proposed location is within ~~one thousand (1,000)~~ one thousand eight hundred (1,800) feet of the perimeter of the street closure and conflicts with the time of another street use permit, unless the event organizer/applicant of the earlier applied for street use permit approves of the issuance of the street use permit proposed for a location closer than ~~one thousand (1,000)~~ one thousand eight hundred feet to the perimeter of the street closure for the event. This subsection does not apply to events that occur four (4) or more times per calendar year, or to City of Des Moines department events.

(b) The holder of a street use permit may give written permission to peddlers and transient merchants to operate within ~~one thousand (1,000)~~ one thousand eight hundred feet of the perimeter of their event as provided under sections 78-66 and 78-35.

Sec. 102-1131 (b) (1) Fees

(b) If the permitted use will require use of any city equipment or services, the applicant shall pay in advance when requested by the street use team, otherwise upon billing pursuant to subsection (c) of this section, either the actual costs or estimated costs when actual costs are not known for use of that equipment and those services in accordance with the schedule of rental and service fees approved by the city council.

(1) There will be an additional fee charged if city staff prepares the traffic control barricade plan for the parade.

Sec. 102-1173 (4) (a)

(4) The route proposed to be traveled, including the starting point, termination point, assembly and dispersal areas, including a map.

(a) Certain events may also require the person or representative of the group applying for a parade permit to also meet with the police department and Traffic & Transportation Staff to discuss their traffic control barricade plan and police staffing needs for the event. An additional fee for plan review may be required.

Sec. 102-1174 (b) (1) Fees

(b) If the parade will require use of any city equipment or services, the applicant shall pay in advance, otherwise upon billing pursuant to subsection (d) of this section, either the actual costs or estimated costs when actual costs are not known for use of that equipment and those services in accordance with the schedule of fees approved by the city council.

(1) There will be an additional fee charged if city staff prepares the traffic control barricade plan for the parade.

In addition to the above recommended ordinance amendments, staff will also be recommending the trail system be used for smaller run/walks with 1,000 or less participants and to provide and encourage suggested routes/closures that are less impactful on businesses, residents, and bus routes. In addition, staff will improve notification of special events by placing them on the City's website and also create an email distribution list of all upcoming events.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

2nd and 3rd readings at future Council meetings and an amendment to the schedule of fees.

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For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.

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ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 102-1124, 102-1125, 102-1130.1, 102-1131, 102-1173 and 102-1174, relating to street use permits.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by amending Sections 102-1124, 102-1125, 102-1130.1, 102-1131, 102-1173 and 102-1174 relating to street use permits, as follows:

Sec. 102-1124. Street use team.

- (a) The street use team shall consist of representatives of the city departments of engineering (traffic and transportation division), police, fire, city clerk, public works, park and recreation, finance (risk manager), and community development (building safety division). Other city representatives or outside representatives will be added as necessary.
- (b) The street use team may require the person or representative of the group applying for a street use permit to be present when the street use team meets regarding the application for a permit. At that time, the applicant may be required to provide any additional information that is reasonably necessary to make a fair determination.
- (c) The street use team may also require the person or representative of the group applying for a street use permit to meet with the police department and/or traffic and transportation staff to discuss their traffic control barricade plan and police staffing needs for the event.

Sec. 102-1125. Application.

- (a) *Contents.* A written application for a street use permit by persons or groups desiring the same shall be made on a form provided by the ~~city clerk~~ city manager's office and shall be filed with the ~~city clerk~~ city manager's office. The application shall set forth the following information regarding the proposed street use:
 - (1) The name, address, telephone number, facsimile number and e-mail address of the applicant(s) or sponsor(s) of the event and contact person(s).
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The date(s) and duration of time for which the requested use of the street is proposed to occur.

- (4) An accurate description of that portion of the street proposed to be used, including a map, and full description of event route if applicable including street closure times.
 - (5) The estimated number of participants/attendees.
 - (6) The proposed use, described in detail, including a description of the activities planned.
 - (7) After initial filing of the application, any additional information may be requested that the street use team deems reasonably necessary to make a fair determination as to whether a permit should be issued, including but not limited to a crowd control/security plan and a traffic control barricade plan. These plans can be prepared by an outside contractor or the person or representative of the group applying for a street use permit. There will be an additional fee charged if city staff prepares the traffic control barricade plan or the crowd control/security plan.
- (b) *Deadline for applications.*
- (1) Applications that include a commercially zoned district must be submitted not less than 90 calendar days prior to the date of the event. Applications received less than 90 days in advance will be assessed the late fee set in the schedule of fees and may be denied.
 - (2) Applications limited to a residential district must be submitted not less than 30 calendar days prior to the date of the event. Applications received less than 30 days in advance will be assessed the late fee set in the schedule of fees and may be denied.
- (c) *Petition required.*
- (1) For all street closure applications with planned street closures at any one location lasting more than 1 hour except events taking place entirely in a residentially zoned district, a petition is required designating the proposed areas of the street to be used and the time of the proposed use. The petition shall be signed by more than ~~50~~ 60 percent of the business owners either abutting or within a building that abuts the portion of the street to be closed for more than one hour.
 - (2) A good faith attempt shall be made to obtain signatures from all business owners/managers either abutting or within a building that abuts the portion of the street to be closed for more than one hour.
 - (3) Applications with petitions that do not have more than ~~50%~~ 60 percent approval pursuant to this section will be denied unless appealed pursuant to section 102-1133 of this division.
 - (4) The petition form shall be available from the street use team and when completed the petition may be verified by the street use team.
 - (5) Applicants who have obtained a farmers or public market permit for the current year pursuant to sections 102-556 through 102-564 are exempt from the petition required by this section.
- (d) *Notice.* The applicant shall provide notice of the event to all residents and commercial tenants, owners, and lessees satisfactory to the street use team including maps, closure times, and contact information.

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Sec. 102-1130.1 Buffer zone.

- (a) A street use permit shall not be granted when the proposed location is within one thousand eight hundred (1,800)(1,000) feet of the perimeter of the street closure and conflicts with the time of another street use permit, unless the event organizer/applicant of the earlier applied for street use permit approves of the issuance of the street use permit proposed for a location closer than one thousand eight hundred (1,800)(1,000) feet to the perimeter of the street closure for the event. This subsection does not apply to events that occur four (4) or more times per calendar year, or to City of Des Moines' department events.
- (b) The holder of a street use permit may give written permission to peddlers and transient merchants to operate within one thousand eight hundred (1,800)(1,000) feet of the perimeter of their event as provided under sections 78-66 and 78-35.

Sec. 102-1131. Fees.

- (a) An applicant who seeks a street use permit shall pay the applicable nonrefundable application fee(s) in the amount(s) set in the schedule of fees adopted by the city council by resolution. The applicable fee(s) shall be paid at the time of application. Applicants who have obtained a farmers or public market permit for the current year pursuant to sections 102-556 through 102-564 are exempt from the application fee.
- (b) If the permitted use will require use of any city equipment or services, to include but is not limited to traffic control and barricade plan creation and/or review or crowd control/ security plan creation and/or review, the applicant shall pay in advance when requested by the street use team, otherwise upon billing pursuant to subsection (c) of this section, either the actual costs or estimated costs when actual costs are not known for use of that equipment and those services in accordance with the schedule of rental and service fees approved by the city council.
- (c) The applicant shall pay, within 30 days of billing, any additional actual costs due according to the schedule of fees approved by the city council by resolution.

Sec. 102-1173. Application.

- (a) A person seeking a parade permit shall file an application under oath with the City Clerk's Office on a form provided by the City Clerk a copy of which shall be immediately delivered to the Chief of Police and to the Street Use Team as designated under Article XVI, Section 102-1124 of this Chapter.
- (b) For single, non-recurring parades, an application for a permit shall be filed at least four (4) days and not more than one year before the parade is proposed to commence. For good cause shown, the Chief of Police may waive the four (4) days limit. Good cause shall be shown when the application can be processed in compliance with the provisions of this chapter in sufficient time to allow the parade to proceed as scheduled and without hazard to the public safety given due consideration of the date, time, place, anticipated number of participants, and the city services required in connection with the parade.
- (c) For parades held on a regular or recurring basis on a substantially similar route, an application for a permit shall be filed at least sixty (60) days and not more than one year

before the parade is proposed to commence. For good cause shown, the Chief of Police may waive the sixty (60) days limit. Good cause shall be shown when the application can be processed in compliance with the provisions of this chapter in sufficient time to allow the parade to proceed as scheduled and without hazard to the public safety given due consideration of the date, time, place, anticipated number of participants, and the city services required in connection with the parade

- (d) The application shall set forth the following information:
 - (1) The name, address, telephone number, facsimile number and e-mail address of the person seeking to conduct the parade.
 - (2) If the proposed parade is to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The date and duration of time for which the parade is proposed to occur.
 - (4) The route proposed to be traveled, including the starting point, termination point, assembly and dispersal areas, including a map, a barricade plan and crowd control/security plan if required per subsection (d) (8) of this section.
 - (5) The approximate number of persons who, and animals and vehicles which will constitute such parade and the type of animals and descriptions of the vehicles.
 - (6) The time at which units of the parade will begin to assemble.
 - (7) The intervals of space to be maintained between units of the parade.
 - (8) After initial filing of the application, any additional information that the Chief of Police or the Chief's designee deems reasonably necessary to a fair determination as to whether a permit should be issued, including but not limited to a crowd control/security plan and a traffic control barricade plan. These plans can be prepared by an outside contractor or the person or representative of the group applying for a parade permit. There will be an additional fee charged if city staff prepares the crowd control/security plan or the traffic control barricade plan.

Sec. 102-1174. Fees.

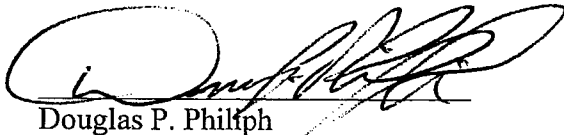
- (a) The applicant shall pay to the city a non-refundable application fee when the application is filed in the amount set in the schedule of fees adopted by the city council by resolution.
- (b) If the parade will require use of any city equipment or services, to include but is not limited to traffic control and barricade plan creation and/or review or crowd control/security plan creation and/or review, the applicant shall pay in advance, otherwise upon billing pursuant to subsection (d) of this section, either the actual costs or estimated costs when actual costs are not known for use of that equipment and those services in accordance with the schedule of fees approved by the city council and subsection (c) of this section.
- (c) The fees for police services shall be determined by the Chief of Police based upon the number of officers reasonably necessary for vehicular and pedestrian traffic control issues brought about due to the parade based on the parade route, the time of day, date, day of the week, duration, general vehicular and pedestrian traffic conditions along the parade route, size in terms of participants and spectators, number of intersections blocked, marked and unmarked intersections along the parade route, and the need to detour or preempt citizen travel on adjoining streets and sidewalks together with the number of marked and unmarked

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- intersections and traffic control devices in the detour area. The speech content of the parade shall not be a factor in determining the number of officers necessary for traffic control.
- (d) The applicant shall pay, within 30 days of billing, any additional actual costs due according to the schedule of fees approved by the city council by resolution.
 - (e) The fees under this section shall not apply to parades conducted for the primary purpose of public issue speech protected by the First Amendment to the U.S. Constitution.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Douglas P. Philiph
Assistant City Attorney