



AN ORDINANCE: By Public Services & Safety
Committee
Re: Amending Sec. 4-206 relating to restrictions on
Transient Merchant Licenses and Chapter 14,
Title V of the Neenah Code relating to Street
Use Permits

ORDINANCE NO. 1396
Introduced: January 20, 2010
Committee/Commission Action:
RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 4-206 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language to read as follows:

4-206 Use of streets.

No licensee shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks. For the purpose of this subsection, a police officer's judgment, exercised in good faith, shall be conclusive as to whether the area is congested and the public impeded or inconvenienced. In addition, licenses issued under this Article shall be subject to operation restrictions under §14-129(c)(10) of this code imposed by Event sponsors issued Street Use Permits pursuant to Ch. 14, Art. V of this Code.

Section 2. Chapter 14, Article V of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

ARTICLE V. ~~PARADES AND SPECIAL EVENTS~~ STREET USE PERMIT

Section 3. Section 14-125 of the Code of Ordinances of the City of Neenah is created to read as follows:

14-125 Purpose.

The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper and uniform circumstances special street use may be permitted, subject to reasonable municipal regulation and control. Therefore, this ordinance is enacted to regulate and control the use of streets for purposes other than ordinary uses,

pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.

Section 4. Section 14-126 of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

14-126 **Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person, firm, partnership, association, corporation, company or organization of any kind organizing a parade or event within the City.

Chief of Police means the Chief of Police of the City.

City means the City of Neenah.

City Clerk means the City Clerk of the City.

Council means the Neenah Common Council.

Committee means the Neenah Common Council's committee of jurisdiction for review of permit applications under this Article.

~~Parade-Event~~ means any parade, march, ceremony, show, exhibition, pageant, special event or procession, or similar display in or upon any street, ~~park~~ or other public places in the City.

~~Parade-permit~~ means the Street Use Permit required by the City.

Street means any public way, street, highway, sidewalk, terrace, or alley. For purposes of this ordinance, a bicycle path or bicycle way shall also be considered a street.

Traffic Engineer means the Traffic Engineer of the Department of Public Works and Utilities of the City.

Section 5. Section 14-127(a) of the Code of Ordinances of the City of Neenah is renumbered as Section 14-127 and is amended by deleting the stricken language and adding the highlighted language to read as follows:

14-127 Permit Required.

~~(a) Required.~~—No person shall participate in or form any ~~parade-Event~~ unless a Street Use Permit has been ~~obtained from the Chief of Police~~approved by the Council and issued by the City Clerk.

Section 6. Section 14-128 of the Code of Ordinances of the City of Neenah is renumbered as Section 14-132 and is amended by deleting the stricken language and adding the highlighted language to read as follows:

14-~~128~~132. Public conduct during ~~parade~~Event.

(a) *Interference*. No person shall unreasonably hamper, obstruct or impede, or interfere with any ~~parade assembly~~Event or with any person, vehicle or animal participating or used in an ~~parade~~Event.

(b) *Driving through ~~parade~~Event.* No driver of a vehicle shall drive between the vehicles or persons comprising an ~~parade~~Event when the vehicles or persons are in motion and are conspicuously designated as a parade unless directed to do so by a traffic official.

(c) *Parking on ~~parade~~Event route.* The Chief of Police or Traffic Engineer may prohibit or restrict the parking of vehicles along a highway or part of a highway constituting a part of the route of an ~~parade~~Event. The Chief of Police or Traffic Engineer shall post signs to that effect, and no person shall park or leave unattended any vehicle in violation of such restriction. No person shall be liable for parking on a street unposted in violation of this section.

Section 7. Section 14-127(b) of the Code of Ordinances of the City of Neenah is renumbered as Section 14-128 and amended by deleting the stricken language and adding the highlighted language to read as follows:

14-128 Exemptions.

~~(b) Exceptions.~~ This article shall not apply to:

~~(4a)~~ Funeral processions.

~~(2b)~~ Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.

~~(3c)~~ A governmental agency acting within the scope of its functions.

(d) Block Parties.

Section 8. Section 14-127(c) – (f) of the Code of Ordinances of the City of Neenah is renumbered as Section 14-129 and amended by deleting the stricken language and adding the highlighted language to read as follows:

14-129 Application

~~(ea) Application process. A person seeking~~The applicant may obtain a Street Use a parade permit Permit shall file application ~~with from~~ the City Clerk ~~and a special events agreement with the Traffic Engineer on the forms provided by the City. The City Clerk shall forward the parade permit to the Chief of Police for review to determine if the application complies with the standards outlined in this section.~~The applicant or their representative shall file the Permit application with and contact the Traffic Engineer regarding the Event. The Traffic Engineer may require the applicant to meet with appropriate City staff to review the Event and prepare the Permit application for submission to the Council. Upon completion of the Permit application, it shall be submitted to the Committee. It shall then be submitted to the Council with the Committee's recommendation.

~~(4b) Filing period.~~ An application for a ~~parade p~~Permit shall be filed with the ~~Chief of Police~~Traffic Engineer not less than 45, ~~nor more than 90~~ days before the date on which it is proposed to conduct the ~~parade~~Event.

~~(2c) Contents.~~ The application for a ~~parade p~~Permit shall set forth the following information:

~~a1.~~ Name, address and telephone number of the contact person ~~seeking to conduct the parade~~for the Event.

~~b2.~~ If ~~a parade~~an Event is proposed to be conducted for, or on behalf of, or by an organization, ~~and the name, address and telephone number of the headquarters of the organization and of~~ authorized responsible heads of such organization.

~~c. Name, address and telephone number of the person who will be the parade chair and who will be responsible for its conduct.~~

~~d3.~~ Date when the parade Event is to be conducted.

~~e4.~~ Route to be traveled. The starting point and termination point. Streets or public ways to be used for the Event.

5. Location of any assembly or disband areas for the Event.

~~f6.~~ The approximate number of ~~persons who and animals and vehicles which will constitute such parade and the type of animals and description of vehicles~~participants or units in the Event.

~~g7.~~ Hours such parade will start and terminate. Beginning and ending times for the Event, including set-up/tear-down times or assembly/disband times.

~~h.~~ Statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

~~i.~~ Location by streets of any assembly areas for such parade.

~~j.~~ Time at which the units of the parade will begin to assemble and any such assembly area.

~~k.~~ The interval of space to be maintained between the units in the parade.

~~l8.~~ If the parade Event is ~~designed~~ to be held by, ~~and~~ on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the ~~Chief of Police~~Traffic Engineer a communication in writing from the person proposing to hold the parade Event, authorizing the applicant to apply for the permit as an agent.

9. Services or equipment requested of the City Parks and Recreation Department, Public Works Department, or Police Department.

10. Vending activities associated with the Event. Event sponsors are permitted to control vending within the public right of way footprint of the event.

~~m11.~~ Any additional information that the ~~Chief of Police~~City finds reasonable and necessary for a fair determination of whether a permit should be issued.

~~(3d)~~ *Late application.* The ~~Chief of Police~~City, where good cause is shown, may consider an application that is filed less than 45 days before the date of ~~such parade~~an Event provided that there is sufficient time to obtain Council approval.

~~(4e)~~ *Fee.* A permit application fee ~~of \$10.00~~in the amount regularly set by the Neenah Common Council shall be required.

~~(5f)~~ *Costs.* In addition to the fee required by Subsection ~~(e)~~(4e) of this section, the ~~parade or special e~~Event sponsor shall also be responsible ~~for any rental fee due for the use of City facilities and for 100% of~~ the City's reasonable service and/or equipment costs associated with the ~~parade or special event.~~Event. Costs shall be calculated as follows:

1. Public Works & Utilities.

i) Hourly rate – Include wages and fringes. The correct fringe benefit rate percentage shall be determined by the Finance Department.

ii) Time - Charge at the appropriate hourly rate for the time the work occurred (regular time, overtime, or double time). The time should

include preparation time (loading equipment, posting parking restrictions, etc.), time spent on the day(s) of the event, and time spent in dismantling from an event.

iii) Vehicle rate – Include charges for equipment time using rates included in the City of Neenah Fee Schedule.

iv) Administrative charge - An administrative charge of 15% will be added to the total cost of personnel and equipment.

2. Police.

i) Include charges for any staff beyond regularly scheduled staff needed to assist with the event or overall City coverage during an event.

ii) Administrative charge - An administrative charge of 15% will be added to the total cost of personnel and equipment.

3. Parks & Recreation

i) Charge for events based on rates approved by the Parks & Recreation Commission.

4. Exceptions. The following events will not be charged for City services:

i) Fox Cities Marathon

ii) Neenah Streetball Challenge

iii) Community Christmas Event

iv) Memorial Day Parade

v) Labor Day Parade

vi) Neenah High School Homecoming Parade

vii) St. Mary's High School Homecoming Parade

5. Communityfest as a City sponsored event is not subject to the provisions of this subsection.

(dg) *Standards for issuance.* In determining whether to issue a permit, the ~~Chief of Police~~Council shall consider the following factors based on the representations in the application and any other information relevant to the conduct of the ~~parade~~Event:

(1) *Traffic congestion.* The conduct of the ~~parade~~Event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its ~~route~~location.

(2) *Police resources.* The conduct of the ~~parade~~Event will not require the diversion of so great a number of police officers of the City to properly protect the line of movement in the areas contiguous thereto as to prevent normal police protection to the City.

(3) *Emergency medical services.* The conduct of the ~~parade~~Event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed ~~line of the march~~Event and contiguous areas.

(4) *Police and fire protection generally.* The concentration of persons, animals and vehicles at assembly points of the ~~parade~~Event will not unduly interfere with

the proper fire and police protection of areas contiguous to the ~~assembly areas~~Event.

(5) *Firefighting*. The conduct of the ~~parade~~Event will not interfere with the movement of firefighting equipment en route to a fire.

(6) *Time and location*. The time and location of the ~~parade~~Event and the manner of its conduct is not of the type likely to disturb the reasonable and orderly repose of the citizens of the City or to unreasonably create a disturbance.

(7) *Delay en route*. The ~~parade~~Event is scheduled to move from its point of origin to its point of termination as expeditiously and without unreasonable delays en route.

(8) *Conditions*. The ~~Chief of Police~~Council may approve ~~aan~~ ~~parade~~Event permit, subject to conditions that will satisfy any of the above listed concerns.

(9) *Events exceeding six hours*. ~~Parades or special e~~Events which propose to close or occupy any City street or public facility for longer than six hours shall require ~~approval by the Common Council~~notification of property owners and tenants abutting the Event site in advance of the Committee review of the application.

(eh) *Rejection of application.*

(1) In the event that the Permit application is rejected, the applicant will be contacted in writing within 5 working days with a statement of the reasons for said rejection.

(2) The applicant may modify the application to satisfy the desires of the Council and resubmit it without paying an additional fee.

~~(1) The Chief of Police shall act upon the application for a parade permit within three days after its filing. If the Chief of Police disapproves of the application, a notice of such action stating the reasons for the denial of the permit shall be mailed to the applicant within five days after the date upon which the application was filed.~~

~~(2) Any person aggrieved by the Chief of Police's rejection of a permit may appeal the denial to the Common Council. The appeal shall be taken at the next regular meeting of the Common Council, and the Common Council shall give the applicant an opportunity to be heard and the police chief an opportunity to state the rationale for the denial.~~

(fi) *Issuance.*

(1) *Copies to City officials*. ~~Immediately u~~Upon the issuance of a ~~parade p~~Permit, the ~~City Clerk~~Traffic Engineer shall ~~send~~ provide a copy to the ~~Mayor, Fire Chief, Chief of Police or designee, Director of Public Works~~any other affected City department and the general manager or responsible head of any transportation utility which may be affected by the ~~route~~location of the proposed ~~parade~~Event.

~~(2) Contents. Each parade permit shall state the following:-~~

~~a. Starting time.~~

~~b. Minimum speed.~~

~~c. Maximum speed.~~

~~d. Minimum interval of space to be maintained between the units in the parade.~~

~~e. Portions of the street to be traversed that may be occupied by the parade.~~

~~f. Maximum length of the parade and miles or fractions thereof.~~

~~g. Such other information as the Chief of Police shall find necessary to the enforcement of this section, including any conditions imposed on the permit.~~

(32) *Duties of permittee.* Permittees under this chapter shall comply with all permit directions and conditions and all applicable laws and ordinances.

(43) *Possession.* The parade chair or other person heading or leading such activities shall carry the parade permit upon his person during the conduct of the parade.

Section 9. Section 14-130 of the Code of Ordinances of the City of Neenah is created to read as follows:

14-130 Insurance.

Prior to the Event, the applicant shall furnish evidence of a general liability insurance policy in the amount of not less than \$1,000,000.00 in a form acceptable to the City. The policy shall be in force and effect at the time of the Event. The evidence of insurance shall include a certificate of insurance naming the City of Neenah, its officers, council members, agents, employees, and authorized volunteers as an additional insured in connection with the usage.

Section 10. Section 14-131 of the Code of Ordinances of the City of Neenah is created to read as follows:

14-131 Termination.

A Street Use Permit for an Event in progress may be terminated by the Chief of Police or designee if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety, if the safety of the public is imminently endangered by activities generated during the Event, if the participants engage in violent or destructive behavior causing injury to persons or damage to property, or if there is a violation of any condition of the permit such that the standards of issuance are no longer met. A Street Use Permit for an Event in progress may be terminated by the Fire Chief or designee if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety.

Section 11. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 12. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Hemes/Zaretzke

Adopted: January 20, 2010

Approved: January 20, 2010

Published: January 25, 2010

Approved:



George Scherck, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
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