

## **ORDINANCE 12-2023**

**AN ORDINANCE RENUMBERING CHAPTER 19, ARTICLE II, SECTIONS 19-41 TO 19-55 OF THE OWENSBORO MUNICIPAL CODE, ENTITLED “SPECIAL EVENTS ORDINANCE” TO CHAPTER 23.5, SECTIONS 23.5-1 TO 23.5-15; AND MAKING VARIOUS AMENDMENTS TO THE SPECIAL EVENTS ORDINANCE INCLUDING AMENDING THE MEMBERSHIP AND MEETINGS OF THE SPECIAL EVENTS COMMITTEE.**

**WHEREAS**, Chapter 19, Article II, Sections 19-41 to 19-55, inclusive, of the Owensboro Municipal Code is the “Special Events Ordinance”, and is included under Chapter 19 entitled, “Parks and Recreation”; and

**WHEREAS**, Special Events are managed by the Public Events Department and not the Parks & Recreation Department; and

**WHEREAS**, in order to prevent confusion, the Special Events Ordinance should be separated from ordinances concerning Parks & Recreation; and

**WHEREAS**, various changes need to be made to the Special Events Ordinance including identifying membership of the Special Events Committee by department, making meetings of the Special Events Committee internal since all members are City employees, and exempting from the Special Events Ordinance events to be held at the Owensboro Indoor Sports Facility.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:**

**Section 1.** That Chapter 19, Article II, Sections 19-41 to 19-55 inclusive of the Owensboro Municipal Code be, and the same are hereby amended, to read as follows:

**Sec. ~~[19-41]~~23.5-1. Title.**

This section shall be known as the Special Events Ordinance.

**Sec. ~~[19-42]~~23.5-2. Purpose.**

It is the purpose of this article to provide for the issuance of special event permits to regulate events on the public right-of-way and public property of the city in the interest of public health, safety and welfare; and to provide for fees, charges and procedures required to administer the permit process.

**Sec. ~~[19-43]~~23.5-3. Policy.**

It is the policy of the city, as implemented through this article and any policies and procedures adopted hereunder, or hereinafter, to recognize the substantial community benefits that result from special events. These events provide cultural enrichment, promote economic vitality and enhance community identity and pride. They also provide opportunities for family activities and funding for our community's nonprofit agencies. Therefore, the city shall endeavor to accommodate special events that are deemed to be in the best interests of the city. It is the city's goal to have successful special events that enrich and promote the community and contribute to the local economy.

**Sec. ~~[19-44]~~23.5-4. Intent.**

It is the specific intent of this article and any policies and procedures adopted hereunder, or hereinafter, to place the obligation of complying with the requirements of this article upon the applicant or organizer, and no provision hereof is intended to impose any duty upon the city or any of its officers, employees or agents. Nothing contained in this article or any policy or procedure 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 damages resulting from the failure of the applicant or organizer to comply with the provisions hereof.

**Sec. ~~[19-45]~~23.5-5. Definitions.**

The following words and phrases when used in this article shall have the following meanings:

- (1) Special events shall mean any festival, carnival, parade, procession, walk, autocade, block party, fair, sport event, production, fundraiser, gala, celebration,

ceremony, race, tournament, activity or other event to which the general public is invited to participate or attend, that is organized, promoted, conducted, or sponsored by the city, the county, or any other person, corporation (for-profit or nonprofit), partnership, company, association, organization, or other entity, and which involves the use of publicly owned, leased, or controlled property, including public right-of-way (streets and sidewalks) and/or city services.

Special events shall also include the above-mentioned events held on private property that would have a direct impact on traffic congestion or flow to and from the event over public right-of-way or which would appreciably impact the need for police, fire, or other public safety and emergency services. ~~[As a general rule, any of the above mentioned events held on private property to which the public is invited to attend and which the organizer expects will be attended by five hundred (500) or more persons, is presumed to have a direct impact on public right-of-way, police, fire, and other emergency services, and shall be deemed a special event for purposes of this article. However, events with significantly smaller attendance may also qualify under these policies and procedures as a special event if they exceed their intended purpose, reasonable occupancy, or impact on city right-of-way;]~~

(2) Applicant shall mean the authorized officer, employee, representative or agent of the organization or group who completes the application and who will be the primary contact for the special event.

(3) Organizer shall mean the person, business, corporation (for-profit or nonprofit), partnership, company, association, organization, or other entity responsible for the special event to be held.

**Sec. ~~[19-46]~~23.5-6. Exemptions.**

The provisions of this article shall not apply to:

- (1) Funeral processions;
- (2) Individual or individuals lawfully assembled for the purpose of exercising their rights protected under the First Amendments of both the United States and the state constitutions;

(3) ~~[Golf]~~ Sports tournaments hosted at ~~[a designated golf course]~~ sports facilities (unless the event requires services or support from outside parks and recreation department); or

(4) A public meeting facility utilized for its intended purpose and occupancy such as the city convention center, RiverPark Center, Edge Ice Center, the city sportscenter, Owensboro Indoor Sports Facility or similar facility.

**Sec. ~~[19-47]~~23.5-7. Special events committee—Membership.**

(a) There is hereby established a special events committee, which shall consist of at least eight (8) members ~~[recommended by the city manager and approved by the board of commissioners]~~. The committee shall consist of the public events director of the city and one (1) representative from each of the following departments and agencies:

- (1) The city police department;
- (2) The city parks and recreation department;
- (3) The city sanitation department;
- (4) The city street department;
- (5) The city facilities maintenance department; and
- (6) The city fire department; and
- (7) The city engineering department.

(b) The chair of the committee shall be the public events director or the director's designee. The chair shall be responsible for maintaining committee records, arranging meeting times and places and issuing approved permits on behalf of the city. The vice-chair shall be the ~~[public works director]~~ Event Coordinator of the City of Owensboro or the director's designee who shall serve as chair in the absence of the public events director.

~~[(c) All meetings of the special events committee shall be conducted in accordance with the requirements of the state open meetings act.]~~

~~[(d) All members of the special events committee shall be advised of, and shall comply with, the city's policy on attendance.]~~

**Sec. ~~[19-48]~~23.5-8. Authority of the chair of the special events committee.**

The chair of the special events committee, after consultation with the committee, is hereby authorized and directed to:

- (1) Interpret and administer this article;
- (2) Represent the city, under the supervision of the city manager, in discussions with the special event applicants and the administration of the permit application process;
- (3) Coordinate with city departments and other governmental agencies for the provision of governmental services for special events;
- (4) Establish, maintain, update, and administer a special event application packet, the terms of which shall include, but not be limited to, insurance and security requirements, appropriate fees, and reasonable limitations as to the time(s), place and manner of the special event;
- (5) Recommend approval or denial of permits to the city manager; and
- (6) Adopt such policies and procedures as are reasonable and necessary for the proper administration of this article.

**Sec. ~~[19-49]~~23.5-9. Special event permit application procedure.**

A special event application must be completed to conduct a special event. The following procedure shall be followed:

- (1) A special event application packet, which contains all special event requirements, and a special event permit application may be obtained from city hall or by downloading an application from the internet website of the city. A copy of the special event application packet and special event permit application are incorporated by reference.
- (2) The special event permit application shall be completed and submitted to the public events director no later than ninety (90) days prior to the proposed event. A completed application shall not constitute approval of the permit.
- (3) A waiver of application deadline may be granted upon a showing of good cause or at the discretion of the public events director. The public events director may consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application, and arrange police and other city services for the event. Filing an application after the filing deadline may result in a penalty, including a late fee or denial of permit.
- (4) The following information shall be provided by the applicant:
  - (a) Proposed date of event;
  - (b) Location;

- (c) Route, if applicable;
  - (d) Hours of operation;
  - (e) Schedule of events;
  - (f) Estimated attendance;
  - (g) Special facility requirements;
  - (h) City support requested; and
  - (i) Other information as the city deems reasonably necessary to determine that the permit meets the requirements of this article.
- (5) An issued special events permit may include, among other provisions, reasonable terms and conditions as to the time, place and manner of the event; compliance with health and sanitary regulations, emergency services, and security.
- (6) The special events committee may require additional permits to meet the conditions established, and/or other city ordinances including, but not limited to: special noise variance, street closure permit, and special temporary alcohol license.
- (7) Additional fees may be incurred for required city services, such as electrical service, security, fire protection, park user fees, etc.
- (8) Disorderly conduct, obscene or vulgar gestures and any unlawful behavior shall not be tolerated at any permitted event by any event organizer, performer, staff, volunteer or anyone associated in anyway with the management or participation in the event.
- (9) The special events committee may contact the organizer to schedule a meeting to discuss all of the details of the planned special event and prior to making a recommendation for approval or disapproval to the city manager.
- (10) The public events director, in consultation with the committee shall make a recommendation of approval or disapproval of the application, including all conditions and terms, and service fees.
- (11) The public events director shall forward the recommendation on the application along with conditions and fees to the city manager or his designee for final approval.
- (12) The city manager shall have the authority to approve the application as recommended by the public events director, remand it to the public events director for further consideration by the special events committee, modify its terms and conditions, or deny it.

(13) Before approving any special event application, the chair of the special events committee and city manager shall consider, but are not limited to, the following criteria:

- (a) Impact on local economy.
- (b) Impact of public health and safety.
- (c) Impact on transportation and traffic within the proposed event area.
- (d) Access to emergency services.
- (e) Availability and/or diversion of city resources.
- (f) Complete application and accurate information.
- (g) Compliance with other city, county, state and federal permits as required by law.
- (h) Outstanding liabilities, if any, to the city.
- (i) Adverse impact or undue hardship, if any, on access and operation of businesses and homeowners.
- (j) Ability or resources of the applicant to adequately comply with the terms and conditions of the proposed event.

(14) The organizer shall be notified in writing of the city manager's final decision.

**Sec. ~~[19-50]~~23.5-10. Evaluation.**

(a) An evaluation of each application shall be conducted by the public events director, in consultation with the special events committee which shall include, but not be limited to:

- (1) Estimated attendance;
- (2) Location;
- (3) Date and time;
- (4) Availability of alcoholic beverages;
- (5) Street closures; and
- (6) Past history of an event or event organizer.

(b) The evaluation may include a petition of affected residents/businesses and a meeting with the applicant/event organizer.

(c) Based upon evaluation, a recommendation will be made for approval or disapproval to the city manager.

**Sec. ~~[19-51]~~23.5-11. Insurance requirements.**

The applicant shall provide proof of general liability insurance naming the city as an additional named insured. The city shall establish reasonable limits of coverage as established and required by the special event policy. A certificate of insurance shall be submitted to the city at least thirty (30) working days prior to the date of the event. Acceptability of tendered insurance coverage is subject to approval by the city.

**Sec. ~~[19-52]~~23.5-12. Indemnification.**

As a condition to the issuance of any permit under this article, the applicant/organizer shall agree to defend, indemnify and hold harmless the city, its officers, employees and agents, against any and all suits, claims or liabilities for damages or injuries caused by, or arising out of, any special events under this article.

**Sec. ~~[19-53]~~23.5-13. Appeal procedure.**

Any applicant aggrieved by a recommendation of the public events director and decision of the city manager regarding an application for a special events permit may appeal same to the board of commissioners by filing a written notice of appeal with the city clerk within five (5) days after the decision is rendered. The appeal shall be heard no later than twenty (20) days after the notice of appeal is filed or prior to the date of the proposed special event, if it is proposed to occur sooner than the twenty (20) days. The appeal shall be based on the record, except when the board of commissioners, in its sole discretion, requests additional evidence from interested parties or other witnesses.

**Sec. ~~[19-54]~~23.5-14. Special event permit required.**

It shall be unlawful for any person to hold, manage, conduct, aid, participate in, organize, sponsor, promote, advertise, or start any special event within the city unless and until a permit to conduct such special event has first been obtained in compliance with the provisions of this article.

**Sec. ~~[19-55]~~23.5-15. Penalty.**

Any person who violates any provision of this article or the terms and conditions of any written permit approved as provided herein, shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense. Each day a violation continues shall constitute a separate offense.



**INTRODUCED AND PUBLICLY READ ON FIRST READING**, this 2<sup>nd</sup> day of May,  
2023.

**PUBLICLY READ AND APPROVED ON SECOND READING**, this the 16<sup>th</sup> day  
of May, 2023.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Davis, City Clerk