

**City Council
Agenda Memo**



**City Council
Meeting Date: December 19, 2013**

TO: Larry D. Gilley, City Manager
FROM: Megan R. Santee, Director of Public Works
SUBJECT: SECOND & FINAL READING OF AN ORDINANCE ADDING CHAPTER 29, "STREETS AND SIDEWALKS," ARTICLE IX, "SPECIAL EVENTS LICENSE" TO THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

GENERAL INFORMATION

Every year multiple public events take place within the City of Abilene right-of-way. Since these events take place within the public right-of-way, without proper oversight the events can pose a risk to the participating public.

To provide the necessary oversight, City staff has drafted a Special Events License Policy that sets out the requirements for the various types of events that take place and the associated fees. This policy requires Council approval. If this policy is approved, this ordinance will provide a penalty for failing to obtain a Special Events License, authorize the City to charge a fee for that license and provide an appeal process in the event an application for a license is denied.

FUNDING/FISCAL IMPACT

There is no anticipated fiscal impact.

STAFF RECOMMENDATION

Staff recommends approval.

ATTACHMENTS

Ordinance

Prepared by: Name: Megan R. Santee Title: Director of Public Works	Item No. <u>7.2</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ City Secretary
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ORDINANCE NO. _____

AN ORDINANCE ADDING CHAPTER 29, "STREETS AND SIDEWALKS," ARTICLE IX, "SPECIAL EVENTS LICENSE" TO THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, every year multiple public events take place within the City of Abilene right-of-way; and

WHEREAS, without proper oversight these events can jeopardize the health, safety, and welfare of the citizens participating in the event; and

WHEREAS, to provide the necessary oversight for these public events, the City of Abilene has developed a Special Events License policy; and

WHEREAS, that policy can only be enforced through ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- PART 1:** That Chapter 29, "Streets and Sidewalks", Article IX, "Special Events License", be added to the Abilene Code of Ordinances as set out in Exhibit A.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each hour such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 5th day of December, 2013.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 8th day of December, 2013, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 19th day of December, 2013, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 19th day of December, 2013.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

ADD to the City of Abilene Code of Ordinances the following:

CHAPTER 29. STREETS AND SIDEWALKS

ARTICLE IX. SPECIAL EVENTS LICENSE

Sec. 29-160. Purpose of Article

The purpose of this article is to ensure the health, safety, and welfare of the public at special events which utilize City of Abilene right-of-way by creating a licensing process for these events.

Sec. 29-161. Definitions

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them by this section:

Business day means any calendar day except Saturday, Sunday or any City of Abilene holiday.

City Manager means the City Manager of the City of Abilene or designee.

Official shall mean City of Abilene Peace Officers, the Director of Public Works or designee, or the City Manager or designee who administers, implements, or enforces the provisions of this chapter.

City Licensing Department shall mean the department of the City of Abilene responsible under the Special Event License Policy for accepting applications for a Special Events License. These Departments include the Abilene Police Department and the Abilene Department of Public Works.

Sec. 29-162. License Requirements and Exemptions

- a) Any event that utilizes the City of Abilene right-of-way shall comply with the licensing requirements of the Special Event License Policy adopted by City Council and kept on file with the Abilene Police Department and the Abilene Department of Public Works.
- b) This article does not apply to events which require a street use license under Article V of this Chapter.

Sec. 29-163. Application.

Applicants for special event licenses under this article must file with the applicable City licensing department an application in writing on a form obtained from the City.

Sec. 26-164. Required fee.

- a) The fee for a special event license shall be determined from time to time and placed on file in the office of the City Secretary. No application for a license will be processed until the required fees are tendered to the City. The license fee is nonrefundable and shall not be prorated.
- b) Expenses for any additional costs for City services necessary for the event shall be billed separately. These expenses include but are not limited to costs for police escort, security, traffic control, refuse collection and street sweeping.

Sec. 29-165. Issuance.

Upon completion and presentation of the application, the City shall issue a license to the applicant within the timelines indicated in the Special Event License Policy.

Sec. 29-166. Expiration.

All licenses issued under the provisions of this article shall expire at the termination of the licensed event.

Sec. 29-167. Transfer.

No license issued under the provisions of this article shall be transferred or assigned.

Sec. 29-168. Denial.

An application for license may be denied to a person under this article for the following reasons.

- (a) An investigation reveals that the applicant falsified information on the application.
- (b) An official has determined that the health, safety or welfare of the citizens would be impaired by allowing the event to occur as requested.

Sec. 29-169. Revocation.

- (a) Licenses issued under the provisions of this article may be revoked for any of the following causes by any official of the City of Abilene:

1. Fraud, misrepresentation or false statement contained in the application for license.
 2. Fraud, misrepresentation or false statement made in the course of carrying out the licensed event.
 3. The applicant refuses to comply with the terms of the license.
 4. The applicant has not provided proof of insurance, if required.
- (b) Notice of revocation of a license shall be given verbally or in writing, and specify the grounds of the revocation.
- (c) When the applicant receives notice that their license has been revoked, they shall immediately surrender their license to the revoking official.

Sec. 29-170. Appeals.

- (a) An appeal from any act of denial or revocation of any license shall be filed with the City Manager within five (5) business days from the date of denial or revocation.
- (b) Such appeal shall be taken by filing with the City Manager a written statement setting forth fully the grounds for the appeal.
- (c) The City Manager shall issue a decision on the denial or revocation in writing within 5 business days of receipt of the appeal.
- (d) The revocation or denial is not stayed pending the City Manager's decision.
- (e) The decision and order of the City Manager on such appeal shall be final and conclusive.

Sec. 29-171. Penalty for violation.

Any person, firm, partnership, corporation, association, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than \$50.00 nor more than \$500.00 for each offense. Each and every hour that such violation shall continue shall be deemed to constitute a separate offense.

Sections 29-172 through 29-180 reserved.