

ORDINANCE NO 4576

AN ORDINANCE REPEALING IN WHOLE AND REPLACING
WITH A NEW CHAPTER 8-11 OF TITLE 8 OF THE ROCHESTER
CODE OF ORDINANCES RELATING TO SPECIAL EVENTS.

THE COMMON COUNCIL OF THE CITY OF ROCHESTER ORDAINS:

Section 1. Chapter 8-11 of Title 8 of the Rochester Code of Ordinances is hereby repealed and replaced to read as follows:

Sec. 8-11-1. Definitions.

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

Background music means subdued and unobtrusive music played:

- (1) No louder than 60 decibels or the ambient street level noise; and
- (2) As an accompaniment to, or for the purpose of creating a pleasant atmosphere for, an activity or a public place.

Carnival means a traveling enterprise offering amusements such as rides, games of chance, and sideshows.

Circus means a production or variety show conducted in an arena or under a tent which includes feats of physical skill and daring, wild animal acts, and/or performances by jugglers and clowns.

Race means any organized bicycle race, foot race, race walking, wheelchair racing, rollerblading, marathon, jogging event and similar events.

Parade means any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, or other public place in the city.

Sound device or apparatus means any radio device or apparatus for the amplification of any sounds from any radio, phonograph or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

Special event.

- (1) The term "special event" means an event held in the city in which one of the following occurs:
 - a. Amplified sound is to be used;
 - b. A street, sidewalk, or other public way or place is closed for the benefit of the event attendees;
 - c. A temporary alcoholic beverage license is required or an existing on-sale alcoholic beverage license is carried to the event location as part of a community festival; or
 - d. The event will adversely impact a considerable number of members of the public;

- e. The event is a walk, run, race, or parade which utilizes public streets, parks, or other right-of-way areas;
 - f. The event is a carnival or circus;
 - g. A temporary cannabis event license is required or is being used in tandem with the event.
- (2) The term "special event" does not include events that the Rochester Downtown Alliance otherwise permits under authority delegated by the common council.
- (3) A temporary cannabis event cannot be held if intoxicating liquor is being served or sold at the event.

Sec. 8-11-2. Purpose and intent.

- (a) The common council determines that the creation of excessive noise and sound within the city limits is a detriment to the public health, safety and welfare and the quality of life of the citizens of the city. Citizens of the city have a right to an environment free from excessive noise and sound that may jeopardize their health, safety or welfare, or degrade their quality of life. Citizens also have the right to be ensured that events occurring within the city are operated in a safe and healthy manner that minimizes the adverse impacts to the citizens. It is the city's objective to promote the peace and quiet enjoyment of residential neighborhoods.
- (b) At the same time, the common council recognizes the desire of many of the city's citizens to fully enjoy the outdoors, especially when the weather permits, for outdoor events. Citizens wish to take advantage of our short-lived warm weather by attending and participating in outdoor musical concerts, parties, walks, races and other events. These outdoor events add to the quality of life in the city and help citizens endure our winter weather by looking forward to warmer weather.
- (c) Accordingly, this chapter represents the common council's balancing of the city's citizens' interests in a quiet and peaceful community and their interests in enjoying the city's outdoor environment during times of good weather. Ultimately, the council seeks to preserve, protect and promote the city's citizens' health, safety, welfare and quality of life.

Sec. 8-11-3. Permit required.

No person shall hold a special event unless such person shall first obtain a permit to be issued by the council in the manner hereinafter prescribed, and unless such person shall comply with the provisions of this chapter, and the terms and conditions prescribed in such permit

Sec. 8-11-4. Application for permit.

Each applicant for a permit shall file a written application with the city clerk. Such application must be received by the city clerk at least 30 days prior to the event, except that applications for events anticipated to have more than 1,000 participants shall be received not less than 120 days prior to the event. The city may waive this filing deadline upon the applicant's showing of good cause or reasonable excuse for the late filing and the absence of any prejudice to the public's health, safety, and welfare. The application must be accompanied by payment of the permit fee as established annually by the common council and contain the following information:

- (1) The location for which the permit is sought;
- (2) The dates and times of the event for which the permit is sought;

- (3) The name, address and telephone number of the applicant and the contact person named by the applicant to implement the permit and to be on site during the event for which the permit is sought. The contact person must be responsible for the permit's compliance with the laws of this chapter and any terms or conditions imposed upon the approval of the permit;
- (4) A description of the facilities and arrangements that are in place for the handling of food, medical needs, sanitation, fire services, garbage disposal, and adequate security and police protection for the event, including crowd control, traffic control and police protection for adjacent property owners;
- (5) A sketch, site plan, stage plot or other description of the land and premises to be used for the event for which the permit is sought;
- (6) A description of the entertainment intended to be provided, including the type of entertainment, the location where it is to be staged or provided, the dates and timeframes during which entertainment is to be provided, a statement as to the maximum number of persons who will be permitted to be in attendance on any particular day and a description of the means by which attendance will be limited to such number of persons;
- (7) A description of the means and methods proposed by the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event;
- (8) A statement from the applicant indicating the applicant has obtained a copy of this chapter, has read and does understand the regulations found within this chapter, and does intend to comply with the regulations found within this chapter and any conditions of approval imposed upon the permit that might be granted in response to his application;
- (9) A statement from the applicant as to whether the applicant requests the maximum sound measurement pursuant to section 8-11-6(b), or the time restriction pursuant to section 8-11-6(c), and the reasons for such request; and
- (10) Such other information that the city clerk, city administrator, chief of police, chief of the fire department, public works director, planning director or city attorney, or their designees, may need in order to carry out the purposes of this chapter, or that may be required pursuant to any special event policy that may be approved by the city and/or common council from time to time.

Sec. 8-11-5. Issuance of permit.

- (a) The city must consider each application for a special event permit in light of all of the following criteria:
 - (1) The volume, frequency and type of sound to be generated;
 - (2) The day of the week, time of day and duration of the special event;
 - (3) The character and nature of land uses underlying and adjacent to the special event;
 - (4) The proximity and compatibility of the special event to residential, religious or medical facilities, or the general public;

(5) The sufficiency of the arrangement made to provide adequate security, garbage disposal, restrooms, crowd control, traffic control and parking control; and

(6) The sufficiency of means and methods proposed by the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event.

(b) The city must not issue any permit to any person who has, during the past 12 months, failed to observe the terms and conditions of any previously issued special event or sound-amplification permit or who has had his right to apply for and receive a permit suspended or revoked under section 8-11-8(b). The city must not issue any permit for any location where, during the past 12 months, there has been an incident involving the failure to observe the terms and conditions of any previously issued special event or sound-amplification permit.

(c) The city may impose conditions upon its issuance of any permit that are reasonably related to the satisfaction of the provisions or the furtherance of the objectives of this chapter, including the criteria listed in subsection (a) of this section. Those conditions may include a time restriction on the special event permit issued pursuant to section 8-11-6(b).

(d) The permittee shall keep the permit in possession at all times at the location of the special event under the authority of the permit, and shall present the permit upon demand by a law enforcement officer.

Sec. 8-11-6 Maximum sound measurement and time restriction.

(a) The measurement of sound pressure levels shall be made with a Type I or Type II decibel meter, as defined by the American National Standards Institute Specifications, S1.4-1971, using the A-weighted, fast response scale. The decibel meter microphone shall be placed three to five feet above ground level and positioned so as not to create any unnatural enhancement or diminution of the measured sound pressure level.

(b) Except as provided in subsection (c) of this section, no person shall exceed the maximum allowable sound pressure level. The maximum allowable sound pressure level is 85 decibels measured at the property line or venue boundary.

(c) The city, in issuing the permit and in consideration of the criteria provided in section 8-11-5(a), may waive the maximum allowable sound pressure level provided in subsection (b) of this section and replace it with a restriction requiring the amplified sound to terminate no later than 10:30 p.m. on the day of each event covered by the permit. If applicable under this subsection, no person shall allow the amplified sound to continue beyond 10:30 p.m.

Sec. 8-11-7. Insurance.

(a) *Liability insurance required.* The applicant or sponsor of a special event must possess or obtain liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury or property damage arising from the special event. A certificate of insurance must be filed with the city prior to issuance of the special event permit. The certificate of insurance must name the city, its officials, employees and agents as additional insureds. Insurance coverage must be maintained for the duration of the special event.

Minimum limits. Insurance coverage must be a commercial general liability policy. The minimum limits must be at least \$1,000,000.00 for injury or damage to any person or property and not less than \$1,000,000.00 in the aggregate amount for any number of claims arising out of a single occurrence. If alcoholic beverages are to be sold or distributed at the special event, the policy must also include an endorsement for liquor liability. The city may require additional endorsements depending upon the type of special event and the proposed activities.

(b) Waiver or reduction of required limits. The city may waive or reduce the insurance requirements of this section under the following circumstances:

(a) The applicant or officer of the sponsoring organization signs a verified statement that the insurance coverage required by this section is impossible to obtain or unreasonably burdensome.

(b) The city determines that the insurance requirements are in excess of the reasonable risk presented by the proposed special event.

(c) All carnivals, circuses, parades, races, runs, and walks covered under this chapter require insurance regardless of the event size or participant number, and no waivers shall be granted to these event types.

Sec. 8-11-8. Temporary Cannabis Event Regulations.

A. Location Restrictions.

1. May not be held on City-owned property or school property;

2. If held outdoors, may not be held on property within 500 feet of a residential property, school, daycare, or a residential treatment facility;

3. May not be held at any single location more than four (4) times in a calendar year.

B. A Temporary Cannabis Event may not be held for longer than three (3) consecutive days;

C. Hours Restrictions: Temporary cannabis events shall only be held between the hours of 7:00 a.m. and 10:00 p.m.

D. On-site consumption of edible cannabinoid products and lower-potency hemp products is permitted.

E. No person holding a permit for a Temporary Cannabis Event shall allow and no participant in a Temporary Cannabis Event shall camp overnight at the location of a Temporary Cannabis Event, except for a reasonable number of persons required to maintain security.

F. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property or

affects their property's value. This general prohibition is not limited by the specific restrictions contained in City Code, Section 405.02. If amplified music and/or speaking is utilized, the following requirements must be met:

1. The applicant must have designated a person affiliated with the Temporary Cannabis Event that is responsible for monitoring sound levels and has authority to ensure that sound does not exceed 80 decibels as measured 50 feet from the property line, or 50 feet from the source, whichever is more restrictive.
 2. The amplified music and/or speaking can only be for a period of four hours or less between the hours of 7:00 a.m. and 9:00 p.m. Monday-Friday, and 9:00 a.m. and 9:00 p.m. on weekends and legal holidays. Amplified speakers are required to be positioned in a way that limits noise to the surrounding residential areas.
 3. The applicant must have provided a name and contact information for a person on-site of the event that will be able to respond to noise complaints and ensure that noise generated at the site complies with this chapter.
- G. Smoking and vaping prohibited. No person shall smoke or vape any product, including cannabis flower, cannabis products, and lower-potency hemp products, or use any cannabis or lower-potency hemp-related or electronic delivery devices at a temporary cannabis event.
- H. Cleanup: Applicant shall, at no cost to the City, immediately clean up, remove, and dispose of all litter or materials of any kind that are placed or left on the premises because of the event, or be charged the hourly rate of the employee for cleanup.
- I. Notice to Residents: Applicant must provide a 10-day notice to residents within 500 feet of the event.
- J. All Temporary Cannabis Events must follow all requirements of Minn. Stat. § 342.01.335.

Sec. 8-11-9. Exceptions

This chapter shall not apply to the use or operation of any sound device or apparatus:

- (1) At a location that is not in, on, near or adjacent to any public street, park, place, or near or adjacent to a residential area;
- (2) By any place of worship on or within its own premises, in connection with the religious rites or ceremonies of such place of worship;
- (3) By the police and fire departments of the city in the performance of their official duties;
- (4) By a public or private school on school grounds;
- (5) In musical presentations made or sponsored by the city's music department;
- (6) By licensed auctioneers during the course of an auction event;
- (7) As background music no later than 10:00 p.m.; or
- (8) As specifically allowed under any other provision of this Code.

Sec. 8-11-10. Suspension or revocation of permit.

- (a) Any special event permit issued by the city may be suspended or revoked upon a finding that the permittee, during the term of the permit, failed to comply with any provision of this chapter, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any applicable federal or state statute, administrative rule, or city or county ordinance.
- (b) A person's right to apply for and receive a special event permit may be suspended or revoked upon a finding that the person has failed to comply with any provision of this chapter, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any other applicable federal or state statute, administrative rule, or city or county ordinance.
- (c) Any suspension or revocation of a permit must occur only after a public hearing has occurred before the common council with notice and an opportunity to be heard provided to the permittee or person who is the subject of the hearing.
- (d) A law enforcement officer may stop a special event when the permittee violates any directive or order issued by the law enforcement officer relating to compliance with a condition of the permit.

Sec. 8-11-11. Permittee's presence on location.

The permittee shall keep the permit in his possession at all times at the location where sound amplification is occurring under the authority of the permit, and shall present the permit upon demand by a law enforcement officer. The contact person, as required to be named in the application form pursuant to section 8-11-4(3), must be physically on location during the time the permit is effective or must have made some other arrangement with and satisfactory to a law enforcement officer.

Sec. 8-11-12. Penalties.

- (a) No person shall violate any provision of this chapter. No person shall violate any directive or order issued by a law enforcement officer in the implementation of this chapter, any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit. A violation of this subsection is punishable as a misdemeanor.
- (b) Upon a finding that a permittee or person has violated any provision of this chapter, any directive or order issued by a law enforcement officer in the implementation of this chapter, any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit, the council may suspend or revoke the permit or the person's ability to obtain a permit pursuant to section 8-11-8.
- (c) No person may be prosecuted for any violation of section 8-7-8 if, at the time of the alleged violation, a permit had been issued to the person under this chapter.

Section 2. This ordinance shall become effective as of the date of its publication.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS _____

ATTEST: *Anne M. Kase*
CITY CLERK

Randy Schubert
PRESIDENT OF SAID COMMON COUNCIL

APPROVED THIS _____

Kim Norton
MAYOR OF SAID CITY

