

AN ORDINANCE TO ADOPT AND APPROVE CHAPTER 20, ASSEMBLAGES IN PUBLIC PLACES, AND PROVIDING FOR INCLUSION AND IDENTIFICATION IN THE CODE OF ORDINANCES FOR THE CITY OF DUNWOODY, GEORGIA TO BE REFERENCED IN THE FUTURE AS CHAPTER 20 (ASSEMBLAGES IN PUBLIC PLACES) AS ATTACHED HERETO AND INCOPORATED HEREIN

WHEREAS: The Ordinance relating to Chapter 20, Assemblages in Public Places, is hereby adopted and approved; and is attached hereto as if fully set forth herein; and,

WHEREAS: This Ordinance shall be designated as Chapter 20 of the Code of Ordinances of the City of Dunwoody, Georgia; and

WHEREAS: This Ordinance shall become effective upon its adoption.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DUNWOODY HEREBY ORDAINS that Chapter 20, Assemblages in Public Places, is hereby adopted and approved as part of the Code of Ordinances for the City of Dunwoody, Georgia. Any ordinances in conflict with this Ordinance are hereby repealed.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2009.

Approved:

Ken Wright, Mayor

Attest:

Sharon Lowery, City Clerk
(Seal)

Approved as to Form and Content:

Brian Anderson, City Attorney

Chapter 20: Assemblages in Public Places

Article 1: Generally

Section 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:

City manager means the City Manager of the City of Dunwoody, Georgia. The City Manager may delegate his authority or be assisted by other employees as required.

Event means any march, meeting, demonstration, picket line, procession, motorcade, rally, or gathering for a common purpose, consisting of persons, animals, or vehicles or a combination thereof upon or in the streets, parks, or other public grounds within the City that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or that endangers or has the possibility of endangering the public's health, safety, or welfare.

Organization or *group of private persons* means a group of three or more persons, or their representatives, acting as a unit.

Private purpose means any purpose not commanded or directed by law, statute, ordinance, or regulation to be performed.

Section 2: Violations and penalties

Any person who violates, or fails to comply with, any provision of this article may be punished as provided in Chapter 1 of the Dunwoody Code of Ordinances.

Section 3: Exceptions

This Chapter shall specifically not apply to funeral processions; neighborhood parades, provided activities remain solely within the boundaries of such neighborhood; sporting events; school students going to or from classes or participating in properly supervised and sponsored activities; governmental entities acting within the scope of their functions; and other activities as provided for by law or regulation.

Section 4: Duties of City Manager

The City Manager shall have the following duties:

- (1) To prepare and provide the necessary forms for the application of a permit and for the submission of any required information needed to review an application, administer, and enforce this Chapter.

- (2) To review an application submitted for completeness and to collect a permit licensing fee in the amount to be determined by Resolution of the City Council which is equal to the administrative costs of processing the application plus the costs for the use of city services or property, unless the activity is conducted for the sole purpose of public issue speech protected under the First Amendment for which no costs are assessed for city services and property.
- (3) To designate or coordinate sites and set time schedules; to coordinate with county authorities; and, where appropriate, to receive the approval of the State of Georgia Department of Transportation, the county sheriff, or other necessary public officials.
- (4) To issue a permit within ten (10) days of receipt of an acceptable and complete application.
- (5) To deny a permit within ten (10) days of receipt of an application if the application is not complete or if any of the circumstances described in Section 3 of Article 2 of this Chapter are found to be existing.

Article 2: Permits

Section 1: Required

Every person, organization, or group of private persons wishing to use public property or public roads in the City for an event is required to obtain a permit from the City for the privilege of engaging in the event within the City, unless such permit is prohibited under State law or the event is otherwise protected from this requirement by Federal or State law.

Section 2: Application

Every person, organization, or group of private persons required to procure a permit under the provisions of this Article shall submit an application for the permit to the City Manager, which application shall conform to the requirements of this Chapter in addition to the following:

- (1) Unless otherwise provided herein, each application is a written statement upon forms provided by the City and submitted to the City Manager within a reasonable time prior to the planned event for security purposes, verifications, and arrangements. A reasonable time shall in this instance be construed to mean a time of at least fifteen (15) days but no more than sixty (60) days prior to the planned event. The City Manager shall act upon the application within ten (10) days of the receipt of a completed application. A person may make an emergency application to the mayor's office if an unforeseen circumstance arises requiring a response within less than ten (10) days. The City Manager shall have discretion to determine if an emergency exists and, subject to this Article, grant or deny such permit.

- (2) Each application shall set forth the following information:
 - (i) The name, address, and telephone number of the person, if the applicant is an individual, or the name, address, and telephone number of an applicant corporation, partnership, organization, or group;
 - (ii) Date, time, and location where the proposed event is to take place, including proposed routes of travel on public streets to be used for the event;
 - (iii) Description of activity involved with the event;
 - (iv) An approximate number of persons, animals, and vehicles which will be involved with the event;
 - (v) Names, home addresses, and telephone numbers of individuals involved with the applicant, if not an individual, who have oversight responsibility for the organization and conduct of the event on behalf of applicant;
 - (vi) A description of any recording equipment, sound amplification equipment, signs, or other attention getting devices proposed to be used during the event;
 - (vii) Plans for disposal of trash and clean up of the event area; first aid provisions; vehicle and trailer storage provisions; and toilet facilities available to event participants; and
 - (viii) Any additional information which the City Manager may find reasonably necessary to the fair administration of this Chapter which may include a complete record of all arrests and convictions against the applicant and every partner, officer or director of the applicant for violations of any and all laws and ordinances of the City, County, State, or Federal government, other than minor traffic violations.
- (3) The application is signed and sworn to by the applicant if an individual, or by a partner, if a partnership, or by an officer, if a corporation.
- (4) All information furnished or secured under the authority of this Chapter is kept and maintained by the City and is utilized only by the officials of the City responsible for administering these provisions.
- (5) Any false statement in an application for a permit may be grounds for revocation or denial of the permit application.

Section 3: Procedure for application review

- (a) Upon receipt of a complete application for a permit, the City Manager shall have it reviewed by the City Departments, the services of which may be impacted by the event.
- (b) Upon receiving reports from the City Departments, the City Manager shall consider the impact of the event as whether it will unreasonably disrupt and obstruct the necessary flow of pedestrian or vehicular traffic or endanger the public's health, safety, or welfare.
- (c) As part of the City Manager's review, conditions may be made for alternate routes and locations of the event to ameliorate issues of traffic flow and public safety, which conditions shall attach to the permit, if issued.
- (d) The City Manager shall also review an applicant's plans for:
 - (1) Trash clean up and disposal provisions;
 - (2) First aid provisions;
 - (3) Vehicle and trailer storage provisions; and
 - (4) Toilet facilities available to participants.

Should the City Manager determine an applicant's plans presented for these services to be inadequate, the application may be denied.

- (e) Upon completion of the review of the application, the City Manager shall issue a permit for the event, including its proposed routes of travel, if the City Manager finds the event can occur without unreasonably impacting upon the use of the public streets, public property, and resources of the City and without endangering the public's health, safety, and welfare.
- (f) Any person whose application under this Article is denied by the City Manager may appeal such denial within three (3) business days after the denial to the City Council, which shall consider such appeal at the next regularly scheduled meeting following the filing of the appeal.
- (g) The council, in considering the appeal, shall determine if good cause exists for denial of the permit and, after hearing and receiving all evidence, shall either uphold the decision of the City Manager or reverse the decision and grant a permit. In reversing, the City Council may attach any requirements deemed necessary to the permit, as conditions to its issuance for protection of the public health and safety.
- (h) The city hall grounds may not be used for holding a parade, assembly, demonstration, or other event on any weekday prior to 8:00 a.m. or after 5:00 p.m. or on any Sunday prior to 1:00 p.m. or after 5:00 p.m.

Article 3: Special Events

Section 1: 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:

Producer means any person responsible for planning, producing and conducting a special event.

Special event means any organized for-profit or nonprofit activity having as its purpose entertainment, recreation and/or education which (i) takes place on public property or (ii) takes place on private property, but requires special public services and which is permitted by the City under this Article. Gatherings or activities that take place on private property and that make no use of city streets, other than for lawful parking, are not subject to the provisions of this Article, but shall comply with all other requirements specified by ordinance as to the use of residential property. No special event shall be allowed to exceed six (6) days in any 30-day consecutive period of time.

By way of example, special events include, but are not limited to, fairs, tours, grand opening celebrations, races, parades, marches, rallies, assemblies, festivals, concerts, holiday celebrations, bicycle runs, and block parties. Private social gatherings which will make no use of city streets other than for lawful parking are not included. Garage sales, lawn sales, rummage sales, flea market sales, or any similar casual sale of tangible personal property are not included.

A *parade, march, or procession* subject to this Article is defined to be a group or number of people or vehicles, or the combination thereof, consisting of five or more vehicles and ten or more persons, or a combination of three or more vehicles and five or more persons, proceeding or moving in a body or in concert along the streets or sidewalks of the City. Specifically excepted from this definition are funeral processions.

Vendor means any person or persons or entity who engages in the sale to the public of any food or food products, goods, services, or merchandise of whatever nature from any location, either mobile or stationary, on a temporary itinerant basis on any public street, sidewalk, or right-of-way as an authorized participant of the special event.

Section 2: Penalties for violations

Violation of any of the sections of this Article or any part thereof shall be punished as provided in Chapter 1 of the Dunwoody Code of Ordinances.

Section 3: Permit conditions

- (a) It shall be unlawful for a special event to occur in the City without having first obtained a permit for such special event.

- (b) All permits issued pursuant to this Article shall be temporary and shall not vest in the holder any permanent property rights in a permit.
- (c) The location of a special event must comply with all existing zoning requirements of the City, and there must be sufficient lawful parking available. An application for a permit shall be subject to review of the Director of the Department of Community Development to determine compliance with zoning requirements. Administrative exceptions are subject to the approval of the City Manager.
- (d) Parades, marches, and processions shall follow such designated route or routes as may be on file with the City Manager and shall be preceded by a police vehicle.
- (e) Unless specifically provided otherwise, a special event is subject to and must comply with any and all other applicable ordinances of the City.

Section 4: Application

- (a) The producer of a special event shall make application for a permit for the special event on a form prescribed by the City.
- (b) An application for a special event permit shall be filed at least sixty (60) days prior to the date the special event is scheduled to take place; provided, however, no application shall be accepted earlier than one (1) year prior to the date of the special event.
- (c) Each application for a special event permit shall be accompanied by a nonrefundable application fee in such amount as may be set from time to time by Resolution of the City Council.
- (d) All producers of a special event shall be properly identified on the application; provided, however, a special event permit shall be issued only to an individual person. Therefore, if a group, organization, association, or other entity is producing the special event, a designated agent of the producer shall be named for purposes of the permit, and this individual shall be solely and fully responsible for compliance with all provisions, including all financial requirements of this Article and other applicable laws.
- (e) The application shall include the following information:
 - (1) Purpose of the special event;
 - (2) Name, address, e-mail address, and telephone number of the sponsoring entity or person in addition to the person named in subsection (d) of this section;
 - (3) Proposed date, location, and hours of operation, but in no event earlier than 8:00 a.m. nor later than 11:00 p.m. in residential zoned locations and in no event earlier than 8:00 a.m. nor later than 12:00 midnight in commercial zoned locations;

- (4) Schedule of proposed activities;
- (5) Projected attendance at the special event;
- (6) Plans for parking, restroom facilities, and sanitation concerns;
- (7) Plan for crowd and traffic control.

In addition, the City or any of its departments may require any other information deemed reasonably necessary to determine that the permit meets the requirements of this Article.

- (f) Two copies of a to-scale survey of the proposed location for the special event shall accompany the application and shall accurately depict the proposed location of the special event, all buildings, structures, parking, and curb cuts permanently located on the site. The survey shall further show the proposed temporary location of any and all buildings, structures, and parking to be associated with the proposed special event. Moreover, the entire location shall comply with the City's standards for setbacks.
- (g) Each City Department and/or agency whose services would be impacted by the special event shall review the application and recommend in writing any conditions or restrictions deemed necessary. Special conditions or restrictions recommended by the City Manager, or his designee, shall become a condition of the permit.
- (h) The following standards shall be considered in reviewing the application:
 - (1) A special event permit may be issued only after an adequate plan for crowd and traffic control, as well as security, and, when deemed necessary, employment of off-duty uniformed and P.O.S.T. certified police officers has been verified by the City and obtained by the producer.
 - (2) A special event permit may be issued only after an adequate plan for fire inspection/prevention and/or fire code enforcement and, when deemed necessary, employment of off-duty uniformed fire personnel has been verified by the City and obtained by the producer.
 - (3) A special event permit may be issued only after an adequate EMS plan and, when deemed necessary, employment of off-duty medics who are state-certified EMT or paramedics has been verified by the City and obtained by the producer.
 - (4) A special event permit may be issued only after adequate waste disposal facilities have been determined by the City and obtained by the producer. The producer shall be required to clean the right-of-way or public property of rubbish and debris, returning it to its pre-special event condition, within 24 hours of the conclusion of the special event. If the producer fails to clean up such refuse, cleanup shall be arranged by the City, and the costs incurred for this service shall be charged to the applicant.

- (5) A special event permit granted by the City may provide for the City to close designated streets and intersections to allow use of the public right of way for the special event during designated hours and days.
- (6) The sound level of any special event must comply with the City noise ordinance.
- (i) After all of the requested information pertaining to the special event has been submitted, reviewed, and approved, a permit may be issued upon payment of all applicable fees and costs. The special event permit, as well as any other permits required in conjunction with the special event, shall be posted on site during the special event.
- (j) Should a permit be denied, the producer shall be notified in writing of the denial.

Section 5: Permit fees

- (a) Each City Department and/or agency whose services would be impacted by the special event shall itemize the departmental activity required for the special event, showing the hourly rate and the actual and reasonable total cost. The "total costs to the City" shall be the sum of each department's costs. The City Manager shall determine and calculate a reasonable fee to reimburse the City for its services.
- (b) A cash bond may be determined to be appropriate by the City, and in this event the City shall advise the producer of the amount, and this bond shall be remitted to the City before the special event permit is issued.
- (c) The initial permit fee shall be paid in full prior to the issuance of the permit and in any event no later than 72 hours prior to the date of the event.
- (d) The fees required in this Article shall be in addition to any other fees which may be required by any other applicable ordinances or regulations.
- (e) No producer of any special event, except as may otherwise be provided herein, shall be exempt from the payment of the appropriate fees and charges required under this Article.
- (f) Should a producer desire to have use of any equipment owned by the City, such as barriers, traffic cones, and the like, an additional fee, as may be established from time to time by Resolution of the City Council, shall be paid so as to cover the reasonable cost for use of the equipment, as well as the delivery and return of the items by City employees.
- (g) Notwithstanding any provision to the contrary, the producer of any special event associated with and benefiting the cause of a charitable organization, recognized as such by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code, shall be excused by the City Manager from the permit fee requirement, but may be required to post the bond described in subsection (b) of this section. Criterion to be considered in determining the appropriateness of requiring a bond shall include the

impact of the event on the cost of services to be provided by the City and on the general public health, welfare, or safety of the City.

Section 6: Liability

- (a) At the discretion of the City, prior to issuance of a permit, the producer shall provide to the City proof of comprehensive liability insurance naming the City as an additional insured. The insurance requirement is a minimum of \$300,000.00 personal injury per person, \$1,000,000.00 maximum, and \$100,000.00 property damage against all claims arising from permits issued pursuant to this Article.
- (b) The producer of any special event shall provide a written agreement in a form satisfactory to the City providing the producer shall defend, pay, and save harmless the City, its officers, employees, and agents from liability of all personal or property damages arising from any acts or omissions emanating from a special event and from any and all claims, attorney fees or lawsuits for personal injury or property damage arising from or in any way connected to the special event. The agreement shall be filed with, and made a part of, the application form.
- (c) The City, its officials, employees, or agents shall not incur any liability or responsibility for any injury or damage to any person in any way connected to the use for which the permit has been issued. The City, its officials, employees, or agents shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the right-of-way or other public property.

Section 7: Vendors of food and merchandise

- (a) The sale of food and/or merchandise by vendors shall be allowed as a component of a special event provided each vendor is authorized to participate in writing by the producer of the event and provided further each vendor shall be subject to all conditions and limitations as shall be imposed in writing by the producer and submitted as part of the application for a permit.
- (b) The producer of a special event shall have sole responsibility and control of all food and merchandise vendors as a component of a special event and to designate the location and activities of such vendors.
- (c) Authorized vendors of the producer, providing food and/or merchandise, shall not be required to obtain a separate vendor permit to operate during the special event.
- (d) Notwithstanding the provisions of subsection (c) of this section, food vendors authorized by the producer shall be required to comply with rules and regulations of the DeKalb County Health Department as to the preparation and service of food.

Section 8: Vendors of alcoholic beverages

The dispensing of alcoholic beverages, by sale or otherwise, shall be allowed as a component of a special event provided each vendor is authorized to participate by the producer and provided further each vendor dispensing alcoholic beverages shall have been duly licensed by the State and the City or another local governing authority and shall further have complied with all provisions of this Code relating to the sale of alcoholic beverages off-premises at an authorized function or event.

Section 9: Miscellaneous provisions regarding vendors

- (a) Each vendor authorized by the producer of the special event shall prominently display on his or her person a badge provided by the producer and identifying the vendor as an authorized participant in the special event which shall bear the signature of the producer or his designated agent.
- (b) It shall be unlawful for any vendor not authorized by the producer as provided herein to engage in any business within a distance of 100 yards of the special event from one hour before the start of the special event, and until one hour after the special event.
- (c) A special event permit granted by the City may provide for the City to close designated streets and intersections to allow use of the public right-of-way for the special event during designated hours and days. The producer shall bear all responsibility for having all vendors remove any structures and all trash and debris from the designated area by not later than the time stated under the permit for re-opening of all streets.

Section 10: Other permits

- (a) The purpose of this Article is to allow the City's departments and staffs to review an application for a special event permit outside the regular ordinance standards in order to determine how disruptive a special event may be to the ordinary use of parks, public streets, rights-of-way, or sidewalks and to make recommendations and allowances. Administrative guidelines issued by the Department of Community Development shall be followed by the City in allowing specified signage and advertising which may not be in compliance with existing zoning ordinances for banners and vendors. Upon approval by the City Manager, or his designee, recommendations and allowances made shall become conditions of the permit to be followed and carried out by the producer.
- (b) Notwithstanding subsection (a) of this section:
 - (1) The holder of a resident or nonresident license to sell and dispense alcoholic beverages shall obtain an off-premises license and event permit for pouring alcoholic beverages for an authorized function or event as provided in chapter 7 of this Code if he is authorized to participate by the producer; and
 - (2) A permit allowing fireworks shall be approved and permitted by the Chief of the City's Fire Department or his designee. Further, the person to be performing the

firework display shall be pyrotechnics licensed and qualified in the State of Georgia.

Section 11: Denial or revocation of a special event permit

- (a) Reasons for denial of a special event permit include, but are not limited to:
 - (1) The special event will unnecessarily disrupt traffic within the City beyond practical solution;
 - (2) The special event will interfere with access to fire stations and fire hydrants;
 - (3) The location of the special event will cause undue hardship to adjacent businesses or residents;
 - (4) The special event will cause unnecessary disruption of public services which would unreasonably impact the remainder of the City;
 - (5) The application contains incomplete or false information; and
 - (6) The producer fails to comply with any terms required by this Article.
- (b) Reasons for revocation of a special events permit include, but are not limited to:
 - (1) False or incomplete information on the application;
 - (2) Failure to comply with all terms and conditions of the permit;
 - (3) Failure to arrange for or adequately remit all fees, deposits, insurance or bonds to the City; and
 - (4) Existence of disaster, public calamity, riot or other emergency as the City determines, in its sole discretion, to be an impact upon the public health, safety and welfare.
- (c) Further, a special event permit may be denied, suspended, or revoked by the City, if the Chief of the Police Department, the Chief of the Fire Department, or their designees, determines that the health, welfare, or safety of the public may be endangered.

Section 12: Appeals

- (a) Any producer whose special event permit application has been denied or revoked may request in writing a review of this decision by the City Manager. This request must be in writing and received by the City Manager within five days of the permit denial or revocation.

- (b) The City Manager shall review the application and reasons for the denial or revocation of the special event permit and shall issue a decision, within five (5) days, whether to uphold or reverse the previous decision and grant or reinstate the permit with such additional conditions as the City Manager may deem justified by the evidence.
- (c) Should the producer be dissatisfied with the decision of the City Manager, an appeal may be filed with the City Council within five (5) days of the decision of the City Manager. The City Council shall set a hearing date within 30 days of receiving an appeal. At the hearing, evidence may be submitted by the producer addressing why the permit should have been granted or not revoked and by the City Manager addressing why the permit was denied or revoked. The City Council shall determine whether the denial or revocation of the permit is justified, or it may reverse the previous decision and grant or reinstate the permit with such additional conditions as deemed justified by the evidence.