

Ordinance #2020-8
Ordinance Book, Volume 2, Page 47

**A TECHNICAL CORRECTIONS ORDINANCE AMENDING
CHAPTERS 2, 6, 22, 38, 46, 74 and 78 OF THE CITY CODE**

BE IT ORDAINED, by the Mayor and Winston-Salem City Council as follows:

Revisions: All Chapters

Section 1. The phrase “City Secretary” shall be deleted wherever it appears in the City code and replaced, in lieu thereof, with the phrase “City Clerk”.

Revisions: Chapter 2

Section 2. Section 2-7. City Services, Programs, Activities and Facilities. is hereby created to read as follows:

“Sec. 2-7. – City Services, Programs, Activities and Facilities.

Purpose.

- (a) General statement. The purpose of this section is to codify the city’s commitment to providing city services, activities, programs, and facilities without segregation or discrimination based on race, creed, color, ethnicity, sex, sexual orientation, gender identity or expression, religion, pregnancy, handicap or disability, age, familial status, political affiliation or national origin.
- (b) Youth. The city is also committed to preserving the dignity and safety of youth participating in city programs, activities and services and accessing city facilities (collectively herein “services”). Consistent therewith, the city is committed to providing such services free of bullying, harassment and intimidation.

Definitions.

- (a) Bullying shall be defined as any severe, pervasive or persistent act or conduct whether physical, electronic or verbal that:
 - 1. May be based on a youth’s actual or perceived race, creed, color, ethnicity, sex, sexual orientation, gender identity or expression, religion, pregnancy, handicap or disability, age, familial status, political affiliation or national origin or on the youth’s association with a person or group with any of the actual or perceived foregoing characteristics; and

2. Can reasonably be predicted to:
 - a. Place the youth in reasonable fear of physical harm to the youth's property or person;
 - b. Cause a substantial detrimental effect on the youth's physical or mental health;
 - c. Substantially interfere with the youth's ability to participate in or benefit from city services.

(b) Youth shall be defined as a person under the age of eighteen (18).

Prohibition against bullying.

Acts of bullying, including cyberbullying, whether by youth, volunteers, program participants, spectators, or staff are prohibited in all city services including those serving youth. Retaliation against anyone including youth who witness, reports or provide information regarding an act(s) of bullying is also prohibited. All city departments that provide services for youth shall follow established city policies and training protocols for reporting and addressing bullying.

Complaints.

Complaints alleging a violation of this section shall be subject to the city's complaint process for receiving and resolving citizen complaints, except ADA complaints shall be submitted under the City's ADA complaint process.

Severability.

The provisions of this section are severable, and, if any part of provision of this section shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts of this section."

Revisions: Chapters 2, 22, 38, 46, 74 and 78

Section 3. The phrases "community development" and "community development department" are hereby deleted wherever they appear in the following chapters and articles of the city code:

Chapter 2, Article 2, Division 14. Urban Food Policy Council.,
Chapter 22, Article IV. Pyrotechnics Permit,
Chapter 38, Article I. General,
Chapter 46, Article II. Sound Trucks and Sound Amplifying Equipment,
Chapter 74, Articles IX. Pushcart, Pedestrian and Mobile Vendors; Special Events,
Chapter 74, X. Sidewalk Cafes,
Chapter 74, Article XII. Street Performers, and
Chapter 78, Article XI. Golf Carts.

and replaced with the phrase "office of business inclusion and advancement".

Revisions: Chapter 6

Section 4. Section 6-12. Sanitation requirements for dogs. is hereby amended to read as follows:

“Sec. 6-12. - Sanitation requirements for dogs.

- (a) *On premises of owner.* At all times, the housing and the premises for dogs kept within the corporate limits of the city shall be maintained in a sanitary manner. There shall be provided a bin or pit which shall be watertight airtight and rat proof. ~~and so arranged that it is flyproof, or a watertight barrel with a close fitting lid.~~ Feces accumulating on the premises shall be placed in the bin; or pit or barrel each day, and the feces shall be removed from the premises at intervals not longer ~~than five days beginning on March 15 and continuing until September 15 of each year, and at intervals of~~ than one week from September 16 to March 14 of each year. Removal may be achieved by placing the feces in two plastic bags, one inside of the other and the feces in the innermost bag, tying the bags closed and placing the bags in the refuse receptacle for pickup by the Sanitation Department.
- (b) *Off premises of owner (private property).* It shall be unlawful for the owner of any dog to permit the dog to leave its feces on the property of another.
- (c) *On city property or in a street.* It shall be unlawful for the owner of a dog to permit the dog to leave its feces on city property or in a city street as defined in section 2-1. When the identity and contact information of the violator can be reasonably ascertained by the city, then the city may issue a notice of violation and take enforcement action against the violator sending all notices and invoices required by section 62-3 to the violator. A violation of this section shall constitute a nuisance, which nuisance shall be abated in accordance with section 62-3.”

Revisions: Chapter 38

Section 5. Section 38-3. Open air public meetings. is hereby amended to read as follows:

“Sec. 38-3. - Open air public meetings.

- (a) *Permit required for open air public meetings on a public street, sidewalk, alley or mall.* No person or group of persons shall hold an open air public meeting upon a public street, alley, sidewalk or mall unless a permit therefor shall first be obtained from the city. For purposes of this section, the term "open air public meeting" is defined to include the delivery of a public address, lecture, sermon or discourse, or the conducting of a public musical or theatrical performance.
- (b) *Form and contents of permit; scope of permit.* Every permit issued under this section shall be in writing and shall specify the day and hour of such open air public meeting, and shall be limited to a specific occasion on a single day.
- (c) *Application for permit; granting or denial; appeals revocation.* Application shall be made in writing, using forms provided by the city, and shall be filed with the ~~community~~

~~development department~~ office of business inclusion and advancement ~~at least 48 hours in advance of the~~ no earlier than seven (7) days prior to the requested meeting and no later than 72 hours in advance of the proposed open air public meeting. The ~~community development department~~ office of business inclusion and advancement shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or ~~his~~ his/her designee. The ~~community development department~~ office of business inclusion and advancement shall promptly deliver the application to the chief of police or ~~his~~ his/her designee, who shall act thereon ~~within 24 hours from the time the application is filed with the community development department~~ no later than two (2) business days from receipt of the application from the office of business inclusion and advancement. If the chief of police or ~~his~~ his/her designee does not approve the application and grant the permit to hold an open air public meeting, the applicant shall be notified in writing of said denial by the ~~community development department~~ office of business inclusion and advancement. The applicant may appeal the denial of said application for a permit to the city council. The notice of appeal must be in writing, must state the grounds for the appeal and must be filed with the community development department office of business inclusion and advancement within 48 hours of notification of the denial. The city council shall act upon the appeal at the first meeting of the city council held more than two working days (exclusive of the council meeting day) after the ~~rejection of the application by the chief of police or his designee~~ filing of the appeal. No permit shall be denied by the chief of police, ~~his~~ his/her designee, or the city council unless the chief of police, ~~his~~ his/her designee, or city council finds that: (i) the proposed open air public meeting will conflict with one already scheduled; ~~or that~~ (ii) the proposed open air public meeting will seriously obstruct the free flow of vehicular or pedestrian traffic; and/or (iii) the applicant and/or those proposing to attend an open air meeting in connection with the application have been found in violation of this open air public meetings ordinance on two or more occasions in the preceding two years. An issued open air public meeting permit may be immediately revoked by the office of business inclusion and advancement if the applicant and/or those attending a permitted open air public meeting act in violation of this ordinance or other applicable law. No open air public meeting may be conducted in such as manner as to constitute a nuisance, constitute a breach of the peace or otherwise endanger the health, safety or welfare of the public.

- (d) *Meetings on other public property.* A permit shall not be required to hold an open air public meeting on other public property of the city, including the front steps or walk area closest to the front entrance of city hall, where such open air public meeting does not encroach or go upon any city street, alley, sidewalk or mall, provided public property is not damaged thereby, ingress and egress to public buildings and other public areas are not obstructed, and the public business is not impeded. To avoid scheduling conflicts, any person or group of persons wishing to use the front steps or walk area closest to the front entrance of city hall for an open air meeting must reserve said location with the city clerk ~~community development department~~ at least 24 hours in advance of the open air public meeting.
- (e) *Sound amplifying equipment, sound truck or other conveyance.* Pursuant to city code section 46-33, an application must be filed with the ~~community development department~~ office of business inclusion and advancement and the same approved before any sound

amplifying equipment, sound truck or other conveyance may be used in conjunction with an open air public meeting, even if a permit is not required to conduct the open air public meeting. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones.

- (f) Severability. The provisions of this section are severable, and, if any part of provision of this section shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts of this section.”

Revisions: Chapter 74

Section 6. Section 74-284 of Article IX. Pushcart, Pedestrian, and Mobile Vendors; Special Events. is hereby amended to read as follows:

Sec. 74-284. - Special events generally; permit.

- (a) *[Hours permitted; exceptions.]* No person may conduct or otherwise participate in any special event except between the hours of 8:00 a.m. and 9:00 p.m., except for events taking place in the central business district area only as defined by Legacy wherein the hours shall be from 8:00 a.m. until 12:00 midnight.
- (b) *Application for permit.* Application for a permit for a special event shall be filed with the ~~community development department~~ office of business inclusion and development on forms provided by the city and shall be accompanied by payment of a permit application fee in the amount set forth below, which amount is based upon the number of events permitted during a 12-month period:

Special event permit (one to two events) \$50.00

Special event permit (series — three to five events) 100.00

Special event permit (series — over five events) 200.00

The above special event permit fee schedule shall apply to any event permit issued on or after July 1, 2014. All permits issued before said date shall remain valid unless otherwise suspended, withdrawn or revoked. Any proposed increase in the number of events authorized by a previously issued special event permit for an event series will require a new permit and a separate permit fee. For example, the applicant or permit holder already has a permit for a three to five event series. The applicant or permit holder now wants to increase the number of events within the same footprint of the previously approved special event permit from a three to five event series to a ten-event series. Provided the new application is approved, the fee for the additional special event permit will be \$100.00 instead of \$200.00 based upon the increased number of events.

- (1) *Filing period.* An application for a special event permit shall be filed with the ~~community development department~~ office of business inclusion and development not less than ~~30~~ 45 days before the time when it is proposed to conduct the special event. The ~~community development department~~ office of business inclusion and advancement

shall be in charge of processing the application which process shall include soliciting input from the appropriate city personnel from other city departments including but not limited to the chief of police or his designee.

- (2) *Contents.* The application for a special event permit shall set forth the following information:
- a. The name, address, email address and telephone number of the individual and organization applying for a permit.
 - b. The name and addresses of persons who will be in direct charge of the special event and be present at the show.
 - c. A description of the type of special event and the hours of operation.
 - d. The names and portions of the streets to be closed for the purpose of displays and conducting the special event or the name and area of any city park or other public place in which the special event is to be conducted.
 - e. An affidavit: (1) stating that every resident and business within the area of the special event was contacted; (2) identifying the specific manner in which contact was made; and (3) listing by name, address, and telephone number, if available, each resident and business contacted. For multi-tenant buildings, it is acceptable to provide information to the building manager or head of the tenant association, provided that person agrees to distribute the information to all tenants and signs an affidavit stating that said information has been distributed as required.
 - f. Any additional information which the City of Winston-Salem shall find reasonable and necessary to a fair determination as to whether a permit should be issued.
- (c) *Standards for issuance of permit.* The ~~community development department~~ office of business inclusion and development shall issue a permit for a special event upon a finding that the application meets the requirements in this section, that the event will not unduly inconvenience or interfere with the orderly movement of traffic in the area involved, that property owners in the area are not unduly deprived of access to their property, that the event will not unduly interfere with normal business activity within the area of the street occupied by the event, that emergency vehicles will not be denied access to any person or property, and that adequate cleanup arrangements have been made. In addition, if the special event is to be located in a city park or other public place, the ~~community development department~~ office of business inclusion and development shall be satisfied that adequate provisions and accommodations, including but not limited to scheduling accommodations, can be made for conducting such special event.
- (d) *Denial or withdrawal of permit.* The ~~community development department~~ office of business inclusion and development shall act upon the application for a special event permit promptly. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application, and the permit application fee shall not be refunded. A permit issued under this section may be withdrawn or revoked, if not withdrawn, in the event of any violation of conditions or misstatement of fact in the application, or in instances where the health or safety of the citizens will be adversely affected. The applicant of any permit so revoked shall be notified in writing of the revocation and the basis therefore. The denial or revocation of a permit may

be appealed by the applicant to the city manager within 48 hours of notification of the denial or revocation. The appeal must be filed with the ~~community development department office~~ of business inclusion and development within the aforementioned time. A hearing before the city manager or his designee shall be scheduled within 48 hours after receipt of the appeal. Within 48 hours after the hearing, the city manager or his designee shall notify the applicant of his decision in writing. The city manager's decision shall be final. No fees shall be refunded for any permit that is withdrawn, denied or revoked.

- (e) *Duration of permit.* Where a special event is to be conducted pursuant to a permit issued under this section, such special event may not extend for more than seven successive days without an intervening lapse period of at least one week.
- (f) *Vendors.* No sale of arts, crafts, food or other tangible items shall be permitted within the street or sidewalk area during the special event except under the auspices and control of the entity receiving the permit. Such entity shall be fully responsible for compliance with rules, regulations and ordinances of the city with respect to the special event being conducted pursuant to a permit issued thereunder. No vendor's permit shall be required for any exhibitor or vendor participating in a special event permitted by this section, nor, in order to avoid the interruption of the special event, shall any vendor's permit issued pursuant to this article be valid in the area of such special event while it is in operation.
- (g) *Criteria required.* A special event permit may be provided for an event series, provided the series meets each of the following criteria:
 - (1) Each event in the series is conducted by the same entity.
 - (2) Each event in the series occurs in the same location or locations as specified in the application for a permit for a special event.
 - (3) The dates for each event in the series are predetermined and stated in the application for a special event permit, and such dates do not exceed 52 per year.
 - (4) The traffic control plan for each location remains the same, unless amended with the approval of department of transportation.
 - (5) The issuance of a special event permit for a series shall be valid for the duration of the series specified in the application for the permit, not to exceed 12 months.
 - (6) If the event fails to take place on two or more consecutive dates specified in the application, for reasons other than those beyond the control of the permit holder, i.e. weather, national disaster, etc., then the permit shall be canceled effective on the last date the event was held. No permit fees will be refunded.
- (h) *Animals prohibited; exceptions.* Notwithstanding any other provision of this Code to the contrary, no animal, except for appropriately restrained seeing eye dogs, shall be permitted on any street or sidewalk area closed for a special event pursuant to this article unless the animal is part of a bona fide exhibit being operated at the special event or parade.
- (i) *Sound amplifying equipment prohibited; exceptions.* Pursuant to city code section 46-33, an application must be filed with the ~~community development department~~ office of business inclusion and advancement and the same approved before any sound amplifying equipment or a sound truck or other conveyance may be used in conjunction with a special event. Otherwise, the use of such sound amplifying equipment, sound truck or other conveyance is

prohibited unless the sound amplifying equipment is being operated so that the sound from said equipment may be heard only through earphones. If a sound amplification permit is issued in conjunction with a special event permit, the sound application equipment may be used for the time period permitted for the special event.

- (j) *Inspection/release/indemnity.* The applicant, as a condition to receiving a special event permit, must sign an agreement that contains the following:
- (1) A statement accepting "AS IS" the area where the special event is to be located;
 - (2) A statement releasing and discharging the city, its officers, agents and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage arising out of the special event, except those claims that were proximately caused by the negligence of the city or of a city employee acting within the scope of his employment with the city; and
 - (3) A statement in which the applicant agree to indemnify, defend and hold harmless the city, its officers, agents and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the intentional, negligent or reckless acts or omissions of the applicant, and its agents, officers, employees or guests, in the performance of the special event.
- (k) *Insurance.*
- (1) If the special event is to take place in the central business district, as defined by legacy, the applicant shall secure commercial general liability insurance to protect the applicant against any and all claims, demands expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury, including death, and/or property damage to the extent proximately caused by the negligent acts or omissions of the applicant, and its agents, employees or guests, in the performance of the special event. The insurance shall also include coverage for liquor liability, explosion, collapse, and underground hazards, where applicable. This insurance shall provide bodily injury and limits of not less than \$1,000,000.00 for each occurrence and property damage limits of not less than \$1,000,000.00 for each occurrence. All insurance required under this subsection shall be written with a company licensed to do business in North Carolina. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except upon 30 days advance written notice to the city. Certificates of insurance for all of the insurance coverages described herein shall be submitted with the application for the permit.
 - (2) If the special event is to take place outside of the central business district, as defined by legacy, the applicant shall secure the insurance required by subsection (1) if the applicant intends to provide any commercial services within the city's right-of-way. Commercial services shall be any paid for service, or service normally offered in return for payment, and shall include, but shall not be limited to, services such as caterers, live entertainment or inflatable bounce houses or rooms. The applicant may have the

provider of the commercial services join on the application and include the commercial services provider's certificate of insurance to satisfy this requirement.

- (3) If the applicant is the State of North Carolina, or an agency thereof such as, but not limited to, Winston-Salem State University or the North Carolina School of the Arts, the City will accept a certificate of coverage issued by the North Carolina Department of Insurance pursuant to the North Carolina State Tort Claims Act, in lieu of the commercial general liability insurance required in subsection (1) above.”

Section 7. This ordinance shall become effective upon adoption.