

## **SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET**

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**ITEM NO:** A 2

**DATE:** May 28, 2009

**SUBJECT:** First Reading Ordinance No. 1045-09  
Special Events Proposed Regulations

**CONTACT PERSON:** Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is to have First Reading Ordinance No. 1045-09 establishing special events regulations to build community connections that bring families and neighborhoods together while adequately providing for the protection of citizens, visitors and all participants involved.

**STAFF RECOMMENDATION:**

1. Have First Reading Ordinance No. 1045-09 enacting special events regulations and establishing Chapter 9.14 of the Sultan Municipal Code; providing for severability; and establishing an effective date.
2. Postpone enacting a special events permit fee until discussions and revisions to the 2009 fee resolution as a part of the 2010 budget deliberations. This will allow city staff and permit applicants to “test-drive” the process and determine what permit fee, if any, is necessary.

**SUMMARY:**

The City Council discussed Special Events regulations at the Council meeting on May 14, 2009. The Council did not request any changes to the proposed regulations and directed staff to return on May 28 2009 for First Reading of an adopting ordinance. Council also requested staff prepare an adopting resolution to adopt a permit fee.

After reviewing the special event permit process, staff recommends the City Council postpone adopting a fee until later in the year when city staff and the community better understand the time and resources needed to process a special events application.

The City of Sultan is considering a set of special events regulations and establishing the regulations by code for events held on public property or affecting public rights-of-way and/or city services.

Interest in developing special events regulations was generated by public concern in 2007 and 2008 regarding the lack of city oversight and public notification of special events held on private property that were affecting surrounding neighbors and city services.

In order to address the public's concerns, the city formed a small work group consisting of citizens, planning board members, City Council members and staff. The purpose of the group was to develop special events regulations to manage the impacts of private events on city services such as police, traffic management, and garbage collection and public property such as city streets and parks.

The group met four times to develop the draft regulations and used sample regulations from the cities of Fircrest, Marysville, Tenino, Bellevue and Kirkland.

While developing the draft regulations, the work group considered several policy questions. These policy questions are the foundation for the draft regulations:

1. What events should be subject to the proposed regulations?
2. Who should be responsible for approving permit applications?
3. What should be the permit requirements and fees (e.g. public safety, garbage, traffic control, etc)?
4. Under what circumstances should the city grant, deny or revoke a permit application?
5. What insurance and indemnification requirements should be adopted?
6. What are the penalties for not complying with an approved permit?

The proposed regulations cover both **community-wide events** such as Shindig and the ABATE motorcycle show which can impact several city services/facilities and **neighborhood block parties** that may close or block a street regardless of the size of the event.

The proposed regulations do not set fees or conditions for permit approvals. Fees will be set as a part of the city's fee schedule by separate resolution. Conditions such as police levels of service and other costs paid by the event organizer for use of city services will be determined by city staff during the permit review process. The Mayor or appointed designee has the authority to approve, condition, deny and/or revoke a special events permit.

The applicant has a right to appeal permit conditions and a denial of a permit to the City Council. The City can add reasonable conditions to a permit after it has been issued based upon public comment.

## **DISCUSSION:**

The majority of the work group discussion centered around trying to balance the needs of event organizers (and the city's desire to encourage special events) with the needs and concerns of surrounding property owners.

Some group members shared concerns about increasing the level of bureaucracy to the point where events are completely discouraged and spontaneous fun is eliminated altogether. Other members had concerns the city would approve a special event without adequate input from affected businesses, property owners and neighbors. The proposed regulations seek to balance these competing needs.

The draft purpose and policy of the regulations is stated as follows:

*Special events, such as fun runs, roadway foot races, fundraising walks, parades, carnivals, shows, exhibitions, and fairs promote tourism, foster economic revitalization of downtown and neighborhoods and provide cultural activities for residents. Events such as neighborhood block parties help build community connections that bring families and neighborhoods together. The City of Sultan encourages such events within an environment that allows for the excitement and fun anticipated, yet adequately provides for the protection of citizens, visitors and all participants involved.*

### **What events should be subject to the proposed regulations?**

1. Community and/or Regional Events such as festivals, fairs, parades, carnivals, fun runs, fundraising walks and rides, and exhibits on public or private property that attract participation from the sky valley community and larger Puget Sound Region and impact city services such as police, traffic management, and garbage collection and public property such as city streets and parks.
2. Neighborhood Block Parties held by people living in a neighborhood, families and close friends on private property or street which may close or block a street, or a portion of a street to traffic, and/or use the street for the festivity including barbecues, picnics, music or games.

Under SMC 9.14.040 the following are exempt from needing a permit:

1. Funeral and wedding processions;
2. Groups required by law to be so assembled;
3. Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls;
4. Gatherings of 30 or fewer people in a city park, unless merchandise or services are offered for sale or trade;

5. Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales;
6. Garage sales or rummage sales;
7. Other similar events and activities which do not directly affect or use city property and/or city services as determined solely by a majority of the City Council.

### **Who should be responsible for approving permit applications?**

The Mayor or designated appointee may approve, deny, or condition an application for a special event permit. The applicant has the right to appeal permit conditions or denial of an application to the City Council. The City Council has full discretion in determining whether and how to hear and resolve appeals. The City Council's decision is final.

### **What should be the permit requirements and fees (e.g. public safety, garbage, traffic control, etc)?**

Permit requirements are listed in section 9.14.100 and include review by community development, public works, fire and police services. Expenses for city and district services are the responsibility of the applicant, even if the permit fee has been waived. A deposit for expenses is due when the permit is issued. Any unused deposit, not in dispute, will be returned upon request within 45 days following the event.

### **Under what circumstances should the city grant, condition, deny or revoke a permit application?**

The Mayor or designated appointee may condition the issuance of a special events permit under section 9.14.110 imposing reasonable requirements. After issuing a permit the Mayor or designee may further reasonably condition the permit based on public comment received within 5 days of public notice.

A special event permit may be denied solely at the discretion of the Mayor or Mayor's designee. The Mayor's determination is based upon a set of conditions outlined in section 9.14.120.

The Mayor or designee may revoke a permit under section 9.14.150 based on misstatements of fact; the activity will threaten or endanger life and/or property; the activity violates the condition of the permit; or the applicant fails to pay a required deposit.

### **What insurance and indemnification requirements should be adopted?**

Indemnification is required in section 9.14.130. Insurance may be required as a condition of permit in section 9.14.140.

### **What are the penalties for not complying with an approved permit?**

Violating provisions of the special event regulations is a misdemeanor and punishable by a fine not to exceed \$1,000 and by imprisonment not to exceed 90 days.

### **FISCAL IMPACT:**

The fiscal impact of adopting the regulations is the creation of a process that will take staff time to manage. Until the City Council establishes the permit fee it is unknown whether the permit fee will cover staff time.

Processing special events permits will take staff time away from other priorities. The benefit of special events for community celebration and economic development may outweigh the processing costs.

### **ALTERNATIVES:**

1. Have First Reading Ordinance No. 1045-09.

This alternative implies the City Council supports enacting special events regulations and is prepared to move forward with Second Reading.

2. Have First Reading of Ordinance No. 1045.09. Direct staff to fix those sections of the code that Council would like to amend prior to second reading.

This alternative implies the City Council has minor questions and/or concerns regarding the proposed special events regulations. The Council may make amendments to the regulations prior to second reading.

3. Do not have First Reading of Ordinance No. 1045-09 and direct staff to areas of concern.

This alternative implies the City Council has major questions and/or concerns regarding the proposed special events regulations and would like to delay First Reading until the changes directed by Council are incorporated into the ordinance.

### **RECOMMENDED ACTION:**

Have First Reading Ordinance No. 1045-09 enacting special events regulations and establishing chapter 9.14 of the Sultan Municipal Code; providing for severability; and establishing an effective date.

### **ATTACHMENT**

A – Ordinance No. 1045-09 Special Events Regulations

**Attachment A**

**CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1045-09**

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**AN ORDINANCE OF THE CITY OF SULTAN,  
WASHINGTON, ENACTING SPECIAL EVENTS  
REGULATIONS AND ESTABLISHING CHAPTER 9.14 OF  
THE SULTAN MUNICIPAL CODE; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE.**

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WHEREAS, pursuant to Article 11, Section 11 of the Washington State Constitution and the City of Sultan’s inherent police powers, the Sultan City Council finds it to be reasonable and necessary to adopt special events regulations necessary for the public health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 9.14 Sultan Municipal Code, entitled “Special Events Regulations” is hereby enacted to read as follows:

Chapter 9.14  
**SPECIAL EVENTS**

Sections:

- 9.14.010 Purpose and policy.
- 9.14.020 Intent.
- 9.14.030 Definitions.
- 9.14.040 Exemptions.
- 9.14.050 Administration.
- 9.14.060 Permit required.
- 9.14.070 Permit fee.
- 9.14.080 Exemptions from permit fee.
- 9.14.090 Permit application.
- 9.14.100 Permit requirements.
- 9.14.110 Permit conditions.
- 9.14.120 Denial of application.
- 9.14.130 Indemnification.
- 9.14.140 Insurance required.
- 9.14.150 Revocation or suspension.
- 9.14.160 Penalty for violation.
- 9.14.170 Severability.

9.14.010 Purpose and policy.

Special events are of infrequent occurrence and temporary nature and may be associated with promotions, holidays, festivals, etc. Special events shall be allowed by a special events permit granted by the Mayor or designated appointee.

Special events, such as fun runs, roadway foot races, fundraising walks, parades, carnivals, shows, exhibitions, and fairs promote tourism, foster economic revitalization of downtown and neighborhoods and provide cultural activities for residents. Events such as neighborhood block parties help build community connections that bring families and neighborhoods together. The City of Sultan encourages such events within an environment that allows for the excitement and fun anticipated, yet adequately provides for the protection of citizens, visitors and all participants involved.

9.14.020 Intent.

It is the specific intent to place the obligation of complying with the requirements of this chapter upon the applicant or sponsor, and nothing contained in this chapter is intended to 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 damage resulting from the failure of the applicant or sponsor to comply with the provisions stated herein. Applicants are responsible for following all pertinent city codes and regulations when undertaking a special event in Sultan.

9.14.030 Definitions.

For the purpose of this chapter, words and phrases used herein are as follows:

“Applicant” shall mean any person or organization who seeks a special event permit to conduct or sponsor an event governed by this chapter.

“Athletic event” shall mean an occasion in which a group of persons collect to engage in or watch a sport or form of exercise on private or public property and/or on a city street, sidewalk, alley, or other street right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include, but are not limited to, bicycle and foot races.

“Block party” shall mean events being held by people living in a neighborhood, families and close friends (not larger publicized events open to the general public) on a private property or a street which may close or block a street, or a portion thereof, to vehicular traffic, and/or use of the street for the festivity including barbecues, picnics, music or games.

“Community and/or regional event includes but is not limited to festivals, fairs, parades, carnivals, fun runs, fundraising walks and rides, and exhibits on public or private property that attract participation from the Sky Valley community and areas outside the Sky Valley and impact city services such as police, traffic management, and garbage collection and public property such as city streets and parks.”

“Parade” shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any city street, sidewalk, alley, or other right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.

“Permit application fee” shall mean the fee to be paid by the special event permit applicant at the time the application is filed with the city clerk. Such fee shall be set by the city council.

“Permittee” shall mean any person or organization who has been issued a special events permit by the Mayor or appointed designee. The permittee shall have authority, subject to approval by the city, to determine participation in commercial activities during a special event.

“Refundable deposit” shall mean the amount of money required of a permittee by the public works department in order to assure adequate cleanup of the special event site. The deposit shall be returned to the permittee upon the completion of the event and approval of the public works department.

“Special events permit” shall mean the permit issued by the Mayor or appointed designee after the applicant has met all applicable reviews and requirements set forth in this chapter.

#### 9.14.040 Exemptions.

The provisions of this chapter shall not apply to:

- (a) Funeral and wedding processions;
- (b) Groups required by law to be so assembled;
- (c) Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls;
- (moved to 9.14.060)**(e) Gatherings of 30 or fewer people in a city park, unless merchandise or services are offered for sale or trade;
- (f) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales;
- (g) Garage sales or rummage sales;
- (h) Other similar events and activities which do not directly affect or use city property and/or city services as determined solely by a majority of the City Council.

#### 9.14.050 Administration.

The Mayor or designated appointee shall, after consultation with appropriate departments and agencies, have discretionary authority regarding special event permits. The Mayor or designated appointee may approve, deny, or condition an application for a special events permit.

#### 9.14.060 Permit required.

- (a) Any person desiring to conduct or sponsor a special event on private or public property, and/or which will necessitate the use of the public right-of-way, shall first obtain a special events permit.
- (b) When such an event will be an exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution, or Article I, Sections 3, 4, 5, or 11 of the Washington State Constitution, the application shall be processed promptly, without charging a fee for political or religious activities or imposing terms or conditions that infringe upon constitutional freedoms, and in a manner that respects the liberties of applicants and the public.
- (c) An internal review process will be conducted for parades, athletic events or other special events that occur exclusively on city property and are conducted in full by the city of Sultan.

9.14.070 Permit fee.

The fee for issuance of a special events permit shall be set by the fee schedule adopted by the city council.

9.14.090 Permit application.

(a) Any person wishing to sponsor a special event shall apply for a special event permit by filing a complete application with the city clerk, on a form provided by the city, at least 30 calendar days prior to the date on which the event is to begin to occur.

Complete applications for special events permits submitted less than 30 days in advance will be accepted but may be approved at the sole discretion of the Mayor or Mayor's designee given sufficient time to adequately review the application and meet the requirements set forth in this chapter.

(b) The Mayor or designated appointee shall issue the special events permit once the application has been approved after review of appropriate agencies to include police, fire, public works, building and planning, and others as determined by the Mayor or designated appointee, and the applicant has agreed in writing to comply with the terms and conditions of the permit.

(c) The Mayor or designated appointee shall approve, conditionally approve, or deny an application based on the recommendations of city departments involved in the review process.

9.14.100 Permit requirements.

(a) Special event uses are to be temporary and approved for a particular zoning district by the planning/building director.

(b) Temporary signage and temporary structures will be allowed subject to provisions of this code pursuant to the interpretive authority and discretion of the planning/building director.

(c) Requests for temporary parking facilities for special events and street closures for special events shall be subject to provisions of this code pursuant to the interpretive authority and discretion of the public works director.

(i) Each site occupied by a special use/event must provide or have available sufficient parking and vehicular maneuvering area for customers and must provide safe and efficient interior circulation and ingress and egress to and from public right of way

(d) Requests for fire and emergency medical services shall be subject to requirements and interpretive authority and discretion of the Fire District.

(e) Requests for police services shall be subject to provisions of this code pursuant to the interpretive authority and discretion of the police chief.

**(f) Expenses for fire, police, medical services, parks, and public works crews needed for coverage and cleanup at the special event are the responsibility of the applicant, even if the permit fee has been waived. A deposit for expenses is due when the permit is issued. Any unused deposit, not under dispute, will be returned upon request within forty-five (45) days following the event.**

(g) Temporary business licenses are required for all vendors. A temporary business license fee shall be set by council resolution.

(h) Applicants are required to provide 10 calendar days notice to surrounding property owners within 500' of the event after an application is approved. The Mayor or Mayor's designee has discretion to allow a shorter notification period to surrounding property owners upon good cause shown and provided that no risk or burden to the city or surrounding property owners ensues.

(i) Applicants must obtain local, county, state and federal permits as required.

(j) A copy of the approved permit and vendor business licenses will be available on site throughout the event.

#### 9.14.110 Permit conditions.

The Mayor or designated appointee may condition the issuance of a special events permit by imposing reasonable requirements concerning time, place, and manner of the event; and such requirements as are necessary to protect the safety and rights of persons and property and the control of traffic.

After issuing a permit, the Mayor or designated appointee may further reasonably condition the permit based on public comment following notification by the applicant of the approved permit. Public comment must be received within five (5) business days of notification.

#### 9.14.120 Denial of application.

A special event permit may be denied solely at the discretion of the Mayor or Mayor's designated appointee based upon a determination that:

(a) The event would endanger public safety and/or interfere with access to emergency services;

(b) The event would seriously inconvenience the general public;

(c) The event would unreasonably infringe upon the rights of abutting properties;

(d) The event would conflict with another proximate event or interfere with construction or maintenance work in the immediate vicinity;

(e) There is not sufficient safety personnel or other necessary city staff to accommodate the event;

(f) The applicant failed to complete the application form after being notified of the additional information or documents required;

(g) Information contained in the application of supplemental information requested from the applicant is found to be false in any material detail;

(h) The applicant cannot meet, or is unwilling to meet, all of the requirements of this chapter or any special conditions imposed by any of the reviewing agencies;

(i) The applicant fails to obtain local, county, state and federal permits or approvals as required;

(j) Other issues in the public interest were identified by the Mayor or designated appointee;

(k) Failure to prepay deposit for expenses.

#### 9.14.130 Indemnification.

(a) Prior to the issuance of the special event permit, the applicant must agree to reimburse the city for any costs incurred by the city in repairing damage to city property occurring in connection with the permitted event.

(b) Permittee agrees to defend, indemnify and save harmless the city, its appointed and elected officers and employees from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the city, its elected officials or employees for damages because of personal or bodily injury, including death at any time therefrom, sustained by any person or persons and on account of damage to property or loss therefrom, arising out of any activity under or in connection with the special event, except only such injury as shall have been occasioned by the sole negligence of the city, its appointed or elected officers or employees.

(c) The Mayor or designated appointee has the authority to require a refundable deposit as suggested by the public works department for reimbursement of the costs for cleanup services.

9.14.140 Insurance required.

(a) The permittee shall provide the city with proof of commercial general liability insurance generally in the amount of \$1,000,000 combined single limits per occurrence, and an endorsement naming the city of Sultan as an additional insured when required as a condition of approval by the Mayor or designated appointee.

(b) Certificates of insurance shall be submitted to the city for approval 14 working days prior to the event. Acceptability of insurance is subject to approval by the Mayor or Mayor's designee.

9.14.150 Revocation or suspension.

(a) A special events permit issued under this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be immediately revoked or suspended by the Mayor or designated appointee if:

(1) The applicant has made a misstatement of material fact in the information supplied; the applicant has failed to fulfill a term or condition of the permit in a timely manner; or a check submitted by the applicant in payment of an expense or fee for a permit has been dishonored;

(2) The applicant requests the cancellation of the permit or cancels the event;

(3) The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety or welfare of persons or property;

(4) The activity conducted is in violation of any of the terms or conditions of the special events permit;

(5) An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety;

(6) Fails to pay deposit for city expenses.

(b) The city shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence; the city shall refund the balance of the fee less the costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this chapter.

9.14.160 Appeal

The applicant has the right to appeal permit conditions or denial of application to the city council. The city council shall have full discretion in determining whether and how to hear and resolve such appeal. The city council's decision shall be final.

9.14.170 Penalty for violation.

Any person, association, firm, partnership, or corporation that violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed \$1,000 and by imprisonment not exceeding 90 days or both such fine and imprisonment. Each day or portion of a day in which a violation is committed constitutes a separate offense.

9.14.180 Severability.

If any part, provision or section of this chapter is held to be void or unconstitutional, all other parts not expressly so held shall continue in full force and effect.

Section 2. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED** BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

CITY OF SULTAN

\_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Laura Koenig, City Clerk

Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney

Ordinance No. 1045-09

Passed by the City Council:

Date of Publication:

Effective Date: