



City Of Scio, Oregon



ORDINANCE NO. 601

AN ORDINANCE CREATING THE SCIO PUBLIC EVENTS CODE

Whereas, the City of Scio is charged with the duty to provide for the safe conduct of public events, ensuring, to the greatest possible degree, public events which adequately address noise, fire safety, facility capacity and other criteria which preserve public welfare, standards of peace and protection to those who attend public events or exhibitions and to neighboring properties; and

Whereas, the City of Scio desires to enact clear criteria for the regulation of the same, with the intent of the issuance of permits as soon as these minimum health, safety, peace, and welfare criteria are met, without consideration, except as allowed by the Constitution of the State of Oregon and the Constitution of the United States, of the content of any alleged speech related to the public event for which a permit is sought;

WHEREFORE, THE CITY OF SCIO DOES ORDAIN AS FOLLOWS:

Section 1. This Ordinance shall be referred to as the Scio Public Events Code.

Section 2. This ordinance shall be effective thirty (30) days after its passage.

Section 3. Statement of purpose.

(A) To ensure that public events, as defined in this Chapter, held within the City of Scio meet minimum standards in order to protect the peace health, safety, and welfare of individuals attending public events in the City of Scio, as well as the surrounding neighbors and areas of the public event.

(B) It is the intent of the City of Scio to ensure that public events within the city limits meet minimum standards. These standards include, but are not limited to, ensuring that responsible persons are directing or are in charge of the event, safeguards against unlawful use and abuse of drugs and alcohol are in effect, and that noise levels are limited so as to ensure the peace, health, safety, and welfare of those attending the public events, as well as the surrounding neighbors.

(C) It is the intent of the City to issue a permit as soon as these minimum health, safety, peace, and welfare criteria are met without consideration, except as allowed by the Constitutions of the State of Oregon and the United States, of the content of any alleged speech related to the public event for which a permit is sought. However, this shall not prevent city officials from considering any history of noncompliance of a particular organizer and/or event with the minimum peace, health, safety, and welfare criteria of this chapter.

(D) Issuance of a permit does not constitute approval of the operation of a business sponsoring the public event on a particular piece of property.

(E) Issuance of a permit authorizes only temporary use of property. Approval does not constitute approval of any property use, construction or alteration of permanent structures. Any long-term use of a specific property or structures as a permanent or developed event site must first be approved under the Scio Development Code.

Section 4. Application and interpretation

(A) When interpreting any provision of this Chapter, or when reviewing a permit application or making a decision to grant or deny a permit, officials of the City of Scio and courts shall limit interpretation and application of the provisions of this Chapter to those purposes stated herein.

(B) This Chapter shall be interpreted and applied in compliance with the Constitutions of the United States and of this State.

Section 5. Definitions

(A) For the purposes of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- (1) **“Adequate”** means that the requirement:
 - (a) accommodates the event attendance for the event times;
 - (b) meets the standards required for that level of assembly; and
 - (c) accommodates the location and nature of the public event.
- (2) **“Administrative Officer”** means the City of Scio City Manager or their designee.
- (3) **“Appear”** or **“appearance”** means the submission of testimony or evidence in a hearing on an application for a public event whether oral or written. Appearance does not include the act of placing a name or address on a petition or having a name or address placed on a petition.
- (4) **“Applicant”** means a person who seeks a public event or exhibition permit from the City of Scio.
- (5) **“City Council”** or **“Council”** means the Scio City Council.
- (6) **“Conflicting use”** means a use or activity that is subject to the Scio Development Code and that would interfere with, or be adversely affected by, conducting a public event described in this Chapter.
- (7) **“City official”** means any employee of the City of Scio, whether elected or appointed, conducting official business on behalf of the City of Scio.
- (8) **“Decision maker”** means the body making a decision to approve or deny a permit for an public event. The decision maker is the Scio City Council.
- (9) **“Director”** means the Community Development Manager, or in the absence of a Community Development Manager, the City Manager of the City of Scio.
- (10) **“Facility”** or **“Facilities”** means a structure, pipeline, roadway, power pole or wire or other similar instrumentality, whether temporary or permanent, that is constructed or assembled for the purpose of the public event. “Facilities” includes tents, shelters, or awnings which are installed or erected for the public event.
- (11) **“Imminent Threat”** means a condition of noncompliance that is reasonably certain to place life or limb in direct peril and is immediate and impending and not merely remote, uncertain, or contingent.

(12) **“Noise level”** means the weighted sound pressure level measured by use of a metering characteristic with an “A” frequency-weighting network and reported as d.b.a.

(13) **“Organizer”** includes any person who holds, stages, sponsors, promotes, organizes, advertises, or otherwise promotes or allows a public event or exhibition. The word includes the applicant for a permit, and any agent designated by the organizer. Used as a verb, “organize” means the act of sponsoring, promoting, organizing, advertising, or otherwise promoting or allowing a public event or exhibition, or making application for the same. Organizer, for the purpose of requiring a permit or the application for a permit, does not include the City of Scio

(14) **“Party,”** in a hearing involving a public event application, means and includes:

(A) the applicant,

(B) all owners or contract purchasers-of-record of the property subject to the application, and

(C) any person who makes an appearance in a proceeding for a land use decision (see **appearance**).

(15) **“Person,”** for purposes of determining a public event and the application of this Chapter, means any individual or group of individuals, corporation, partnership, or organization. The singular form includes the plural. For purposes of this Chapter, “person” means an individual who is expected to attend an event.

(16) **“Public Event” or “Public Exhibition”** means any activity where persons are permitted, or invited, to attend and where a fee is charged, or a voluntary contribution is paid, or solicited, for the privilege of attending; or any money is raised or items sold to defray the expenses of such exhibitions or events, unless exempted under this chapter, or is such an event which is required to obtain a permit from Linn County pursuant to the Linn County Outdoor Assembly Peace, Health, Safety, and Welfare Code, found at Linn County Code Chapter 580.

(17) **“Reviewing authorities”** means any government official designated by the City Council for the purpose of reviewing applications for permit to conduct a public event and making comments including recommendations thereon. Among other officials, “reviewing authorities” include the Scio City Manager, Chief of Police, Community Development Manager, General Manager of Utility Services, Building Official, and the Chief of the Scio Fire District.

(18) **“Standing”** means appearing in a hearing on an application for a public event for which an appeal may be made pursuant to this Chapter.

Section 6. Waivers – generally

(A) *Waiver of Time Limits.* Upon a finding of good cause, the decision maker may waive by order any time limit imposed by this Chapter. In the order waiving any time limit, the decision maker must state the new time limit. Any waiver of the time limits imposed by this Chapter may not require an organizer to submit an application more than 120 days before the first day on which the public event is to be held.

(B) *Insurance Waiver Conditions.* The decision maker may waive all or part of the requirements of liability insurance upon a showing by the applicant of good cause to reduce or waive the insurance.

Section 7. Permits – generally

Unless otherwise excepted by this chapter, an organizer holding or conducting a public event or exhibition must demonstrate compliance with the peace, health, safety, and welfare criteria of this Chapter by applying for and obtaining a permit for each public event or exhibition.

Section 8. Permit exceptions

It is the responsibility of the event organizer to determine if the sponsored event qualifies for any of the following exceptions to obtaining a City Event Permit. Except as otherwise expressly provided in this Chapter, this Chapter shall not apply to:

- (A) Any regularly organized and supervised school, educational, or training event, sponsored or directed by an educational institution.
- (B) Any event primarily in or that uses or occupies a permanent structure and facilities when such structure and facilities have been:
 - (1) Designed for that activity, and
 - (2) Designed to accommodate, in a manner consistent with this Chapter, the number of people in attendance or reasonably expected to be in attendance at that activity, or
 - (3) Approved under the Scio Development Code.
- (C) Any assembly under the auspices of, or approved by any local, state or federal governmental entity or agency.
- (D) Any assembly regulated by Linn County as an Outdoor Assembly, under Chapter 580 of the Linn County Code.
- (E) Any assembly or event likely to attract fifty (50) or fewer participants/attendees (but in no event more than 75) and to have a total elapsed time of less than three (3) hours, or any assembly or event not likely to have more than fifty (50) people present at any point in time, regardless of the length of the event or the overall total number of event participants.

Section 9. Prohibitions

- (A) Unless otherwise excepted by this Chapter, any organizer that allows a public event to be held or conducted on real property the organizer owns, leases or possesses or otherwise controls, whether or not a charge or contribution is required for admission, shall not fail to demonstrate compliance with the peace, health, safety, and welfare criteria of this Chapter by applying for and obtaining a permit for such a public event as provided in this Chapter.
- (B) No organizer shall fail to comply with the peace, health, safety, and welfare standards and criteria of this Chapter for the public event the organizer actually conducts should the organizer, for whatever reason, not obtain a permit under this Chapter.

Section 10. Permit — fees

(A) In addition to any other fees authorized in this Code, the fee for each permit required under this Chapter shall consist of and be based upon an application fee as set forth in this section.

(B) *Application Fee.*

(1) An application fee in the amount of \$250.00 or as modified by resolution of the City Council as limited to an amount calculated to reimburse the City for its reasonable, actual, and necessary costs in receiving, processing and reviewing applications for permits to conduct a public event.

(2) The application fee shall be paid upon filing the application with the City. The application fee is non-refundable. No application will be considered unless the required application fee is paid, or a waiver granted.

Section 11. Permit — insurance

(A) *Insurance.* If the decision maker determines that the public event creates a significant potential for injury to persons or property, the applicant shall furnish evidence of liability insurance.

(B) *Failure to show proof.* The City Manager may void a permit for the public event and so notify the organizer at the address provided in the application, if the organizer does not file proof of the non-cancelable insurance meeting the requirements of this subsection with the City Manager at least 10 days before the first day of the event.

(C) *Scope of review.* When making a determination that the public event creates a potential for injury to persons or property under subsection (A) of this section or when waiving the insurance requirement for good cause, the decision maker shall not consider, except as allowed by the Constitutions of the State of Oregon and the United States, the content of any alleged speech related to the public event for which a permit is sought.

Section 12. Written application

(A) *Filing timeline.* Unless the time for filing is otherwise set by the decision maker pursuant to Section 6, the organizer of a public event shall file or cause to be filed with the City a written application accompanied by the application fee sixty (60) or more days prior to the first day upon which such a public event is to be or may be held. Applications submitted less than sixty (60) days prior to an event will be accepted, but the City may not be able to issue a permit prior to the event start date.

(B) *Application form.* An application shall be made on forms provided or approved by the City.

(C) *Application content.*

(1) All applications shall at a minimum require that the applicant to include:

(a) The name, address, and 24-hour telephone number of the applicant, the organizer, and the contact person, if either, or both, are not the applicant. If the applicant is a corporation, association or firm, the names and residences of the officer(s) or director(s) responsible for the event.

(b) Address and description of the property on which the proposed public event will be conducted.

(c) The dates and event times of the proposed public event.

(d) The names, addresses and other identifying information as may be required by the City of other persons principally involved in the event. For purposes of this chapter, persons "principally involved in the activity" means:

1. Owners;
2. Managers;
3. Producers;
4. Others as may be requested by the City;

(e) The nature of such proposed public event.

(f) A photograph of any on-site person in charge of the event and acting as agent for the organizer.

(g) An event "site map" designating, at a minimum, proposed parking areas, emergency access routes, setbacks from adjoining properties, location and quantity of proposed sanitary facilities, and any proposed overnight camping areas.

(h) An estimate of the total number of persons attending and participating in the event.

(i) Source(s) of potable water.

(2) In the event that any of the persons principally involved in the activity or event should change, either prior to the approval of the permit or after approval, it shall be the continuing obligation of the organizer or permittee to communicate the change to the City, both orally and in writing, within 72 hours of the change or, if during the event, within 8 hours of the change in the person principally involved in the activity.

Section 13. Master Permits and Permits for multiple events and recurring events.

(A) *Master Permit.* An event organizer may apply for up to a five (5) year Master Permit that provides blanket approval for all public events sponsored or organized by the applicant provided that:

(1) All terms and conditions of this chapter are met on each event occasion or occurrence.

(2) All terms and conditions imposed on the issuance of a Master Permit are met on each separate event occasion.

(3) The Master Permit holder allows and assures cooperation with City officials upon inspection for each separate occurrence or assembly.

(4) The Master Permit holder shall notify the City Council in writing of the specific dates of each separate public event or occurrence conducted under the auspices of the Master Permit at least forty-five (45) days prior to the start of each individual event. Said notice shall include the name(s) of the event and event sponsors as well as the name(s) of the responsible parties for each event. In addition, the Master Permit holder shall provide a good faith estimate of the number of event attendees.

(5) The Master Permit holder will advise the City, in writing, at least forty-five (45) days prior to the event of special or unique event activities including, but not limited to: OLCC permits, the discharge of any firearms, cannons or fireworks, whether members of the public are invited, whether any vehicle racing or competition will occur, or any other feature or aspect of the planned event that might result in a public nuisance.

(6) The Master Permit holder shall file proof of insurance for all events authorized under the permit and the City of Scio shall also be named as an additional insured.

(7) All events authorized under the Master Permit shall be held on the same, designated parcel(s) of land.

(8) All events authorized under the permit will in general, comply and be consistent with the “event site map” as required herein.

(9) As a condition of the Master Permit, if the permit holder fails to comply with the terms of the permit issued under this section, the City Manager may than revoke the Master Permit as set forth in subsection (C) of this section.

(B) *Revocation.* Upon determination by the City Council of non-compliance with the terms of a permit or upon the failure of the permittee to abide by provisions of law or other conditions contained in this Chapter, the City Council may, with notice, revoke the permit in compliance with this section.

(1) The permit may be revoked for the remaining term of the permit by providing written notice to the organizer permittee at least 15 days prior to the permit suspension.

(2) The permittee may appeal a permit revocation to the Scio City Council who will hold a de novo hearing within 20 days of receipt of a written appeal.

(3) The City Council may reinstate the permit if the City Council finds by a preponderance of the evidence that the terms and conditions of the permit, this section, or this Chapter, have not been violated by the organizer.

(4) An organizer shall not conduct a public event once a permit issued under this section is revoked.

Section 14. Pre-application conference

(A) The City may require a pre-application conference take place before the application is deemed complete by the City. A pre-application conference is required for all Master Permit applications. The pre-application conference, if required, shall take place within ten working days of receipt of the application by the City.

(B) The Director or City Manager shall provide notice of any pre-application conference to the reviewing authorities and they and the applicant shall participate in the pre-application conference.

Section 15. Staff review and comments

(A) *Review and comments.* Following filing, the application shall be reviewed by the reviewing authorities for completeness. Each reviewing authority shall review the application and determine whether the application contains sufficient information to show that the applicant can comply with the requirements of this chapter.

(B) *Comments, Recommendations, and Permit Conditions.* The reviewing authorities may make written comments including recommendations and proposed conditions.

(C) *Scope of review.* The reviewing authorities shall limit the scope of their review of the application to the standards and criteria set forth in this code and shall not consider, except as allowed by the Constitution of the State of Oregon and the Constitution of the United States, the content of any alleged speech related to the public event for which a permit is sought.

(D) *Notice.* The City Manager shall note on the application the date the application is deemed complete or incomplete and shall provide notice thereof to the applicant, by any means, within fifteen (15) working days of the applications submission. Upon the receipt of the complete application, and no less than 10 days prior to a final decision, notice in writing shall also be given to property owners, as determined by a review of the Linn County official records, who own real property which is located within 250 of the real property to be used for the public event, any persons who have requested to be given notice of such actions or any governmental agencies which may be effected by the public event.

(E) *Incomplete Applications.*

(1) If an application is deemed incomplete, the applicant may, not later than fifteen (15) days from the date of the notice of the incomplete application, revise the application by submitting the missing information to the Director.

(2) An application shall be considered as withdrawn by the applicant, if the applicant fails to submit the missing information within the time specified in subsection (F) (1) of this section or fails to submit a revised application within 5 business days.

(F) *Second notice.* Upon deeming a revised application complete or incomplete, the City Manager shall so notify the applicant by any means.

(G) Failure of the City to deem an application complete or incomplete within the time required by this section shall be construed in favor of the applicant and the application shall automatically be deemed complete.

Section 16. Decision Making and Approval Process and Criteria

(A) Unless the applicant consents to a later date, a final decision shall be made no later than 30 days after a complete application has been filed with the City.

(B) *Decision of City Council.* An application for a public event permit shall be set before and a decision thereon shall be made by the City Council pursuant to subsection (E) of this section.

(C) *Decision Making Procedures.*

(1) The City Council shall consider and apply the provisions of Section 11, Section 19 and Section 21 during review and shall assure that the required conditions of approval are or will be met prior to issuing a permit; and

(2) The City Council shall impose on each public event permit approved the standards of Section 19 and Section 20.

(3) The City Council may impose on each permit approved any conditions the City Council deems appropriate and any conditions recommended by the reviewing authorities. In imposing conditions under this paragraph, the City Council shall not consider, except as otherwise allowed by the Constitution of the State of Oregon and the Constitution of the United States, the content of any alleged speech related to the public event for which a permit is sought. However, the City Council may consider any history of noncompliance of a particular organizer with the minimum health, safety, peace, and welfare criteria of this chapter when imposing conditions on the permit.

(4) The City Council shall review the application and identify conflicting uses in the area that can be minimized by reasonable and practicable measures, including conditions and regulations. Such measures, including conditions and regulations shall be clear and objective, and may not involve discretion on the part of the City Council.

(5) The review shall not:

(a) Exceed the minimum review necessary to assure compliance with the regulations of this Chapter;

(b) Provide opportunities to deny the lawful assembly of persons for reasons unrelated to these requirements.

(D) *Approval Criteria.* The City Council shall:

(1) Approve the application if:

(a) The applicant demonstrates compliance with or the ability to comply with the rules and regulations set forth in this chapter; and

(b) The City Council makes the findings of fact required by subsection (E) of this section; or

(2) Approve the application with conditions pursuant to this section.

(3) Deny the application if:

(a) The applicant is unable to demonstrate compliance with or the ability to comply with the rules and regulations governing public events in this chapter; or

(b) The City Council is unable to make any of the findings of fact required by subsection (E) of this section.

(E) The following findings of fact must be made by the decision maker before approving the public event application for permit:

(1) Any permits required by the applicable land use regulations have been granted;

(2) The proposed public event:

(a) is compatible, during the term of the event, with existing land uses; and

(b) the applicant has demonstrated compliance with or the ability to comply with the rules and regulations set forth in this chapter.

(3) The organizer of a public event must conduct the event in compliance with the permits required by this section and in a manner consistent with the findings of compatibility and stability required by this section.

(F) The City Manager shall provide notice of the decision within 5 days to the applicant and to all parties having participated either orally or in writing in the decision making process.

(G) Failure by the decision maker to make a final decision as required by this section shall be construed in the applicant's favor and the permit shall be deemed granted. Notwithstanding the authority to conduct a public event under this subsection, the organizer shall comply with the appropriate level of peace, health, safety and welfare criteria and standards set forth in this Chapter and, if the organizer fails to comply with those standards and criteria of this Chapter, the City shall have available all remedies at law or pursuant to the Scio Municipal Code.

Section 17. Nature of the decision

(A) A decision pursuant to this chapter to approve or deny an application for a public event application is not a land use decision.

(B) A decision by the City on an application that is based on the application of the Scio Development Code is a land use decision.

Section 18. Appeals

(A) Any party may request that the City Council reconsider its decision on a public event application by providing written notice to the City Manager no later than 15 days after the mailing of the notice of decision.

(B) Except as provided for the appeal of a land use decision by Oregon law, the decision of the City Council shall be final.

Section 19. Permit standards

(A) *Noise Control.* Unless first waived by conditions of a permit issued under this chapter, the organizer shall not allow event noise levels, to exceed the standards set forth in Ordinance No. 591 Section 7 for "Industrial Uses" when measured at the boundary of the event property or the standards for "Residential and Noise Sensitive Use" (+10 dB) when measured at a residential or noise sensitive receptor.

(B) *Intoxicating liquor.* An organizer shall not permit any person to sell, to provide or to furnish intoxicating liquor upon the premises of a public event. This provision shall not apply to the sale, furnishing or provision of intoxicating liquor from a facility located on the premises of a public event if the vender has obtained a valid license from the state of Oregon authorizing that sale or furnishing of intoxicating liquor on the premises.

(C) *Narcotic and dangerous drugs prohibited.* An organizer shall not permit any person to bring into a public event, or upon the premises thereof, any illegal narcotic or dangerous drug, nor permit illegal narcotic or dangerous drugs to be used on the premises.

(D) *Public Health and Safety.* An organizer shall assure that there are adequate sanitary facilities to meet the needs of the public attending the event. The organizer shall also assure that emergency vehicles can readily and safely access the event and that there is safe and adequate

room/separation between motor vehicle, ingress/egress, vehicle parking, pedestrians and any overnight campers.

Section 20. Inspection

(A) The allowance of inspections by City officials, including representatives of all reviewing authorities at all reasonable times before the public event and at all times during the actual hours of the public event, shall be a condition of the granting of a permit as follows:

(1) Of all structures and facilities of the outdoor assembly for compliance with this Chapter, State law, and applicable Oregon building and safety codes;

(2) Of the site, by the Linn County Sheriff's Department or other law enforcement designee, for conditions concerning crowd and traffic control and the presence of illegal narcotic or dangerous drugs; and of unpermitted alcohol usage.

(3) The number of officials utilized to conduct administrative inspections of an assembly site shall be limited to that number of persons reasonably required to adequately conduct inspections under this section.

(4) Inspections at all reasonable times before the public event and at all times during the actual hours of the public event by the fire chief, or designee of the fire district, for compliance with fire safety regulations.

(5) If the inspections by officials or the fire district reveal deficiencies in compliance with the permit or State or local laws, and the deficiencies are not cured within the time required by the inspectors, or cannot be cured, and create an imminent threat to health, peace, safety, or property, the City may terminate the public event by order of the City Manager.

(B) For all inspections set forth in Section (A) above that occur during the actual hours of the public event, the event organizer shall be notified in advance of any inspection. Additionally, the event organizer, or a designee, may be allowed to accompany any inspector as part of the inspection process. This section shall not apply to any emergency situation as determined by any law or fire enforcement officer or the City of Scio.

(C) The organizer shall comply with the conditions imposed by this section.

Section 21. Cleanup; damages; fines thereon

If the organizer fails to remove all debris or residue or fails to repair any damage to personal or real property arising out of the public event within 72 hours after its termination or fails to remove any temporary structures used at the public event within three weeks after its termination, then, in addition to any other remedies provided, the City may arrange for cleanup of the site and any other property damaged by conduct arising out of the holding of the event and may file an action for damages against the organizer as is needed to remove debris, residue or temporary structures and to repair such damage to real or personal property of persons not attending the public event. Citations may be issued pursuant to any provisions of Scio municipal law to the organizer and all persons who have left debris behind. This penalty is in addition to any other lawful penalty or remedy, suit or action available to the City, including any action to prevent, restrain or enjoin any violation of this Chapter.

Section 22. Violations; penalties

(A) Criminal and civil liability shall rest on any organizer who upon written citation, warning or advisement of the City, conducts or permits to be conducted a public event that is inconsistent with this Chapter or who otherwise fails to comply with the provisions of this Chapter.

(B) Any organizer who upon written citation, warning or advisement of the City, violates or fails to comply with the provisions of this chapter, or who, having obtained a permit under this Chapter, fails to comply with the terms and conditions there under, or who counsels, aids or abets such a violation or failure to comply may be cited and prosecuted for a violation of this code and assessed a fine of not more than \$500 per violation. This penalty is in addition to any other lawful penalty, suit or action available to the City.

(C) An organizer's compliance with the standards, terms and conditions of this Chapter shall constitute minimum peace, health, safety, and welfare provisions. Failure to comply with the standards, terms and conditions of this Chapter or State laws shall constitute a public nuisance and shall be subject to all criminal, civil and equitable remedies as such.

(D) In addition to and not in lieu of the maintenance of other actions for any violation of this Chapter, the City through the City Attorney may maintain an action in any court of general equitable jurisdiction to prevent, restrain or enjoin any violation of this Chapter.

(E) A violation of this Chapter shall be a Class A Misdemeanor.

This Ordinance was passed on the 12th day of October, 2015 by the City Council and executed by the Mayor this 21 day of October, 2015.

Date: 10/21/15 By: Gary C. Weaver
GARY C. WEAVER, Mayor

Date: 10-21-15 Attest: Virginia A. Griffith
VIRGINIA A. GRIFFITH, City Manager

APPROVED AS TO FORM

Date: 11/9/15 By: John E. Kennedy
JOHN E. KENNEDY, City Attorney