

..Number
200310
..Version
PROPOSED SUBSTITUTE
..Reference

..Sponsor
ALD. BAUMAN

..Title
A substitute ordinance relating to the extraordinary event of the Democratic National Convention.

..Sections

..Analysis

This ordinance establishes regulations and permit-issuance procedures for the use of city streets and public property during the 2020 Democratic National Convention scheduled to take place in Milwaukee in August, 2020.

..Body

Whereas, Milwaukee was selected to host the 2020 Democratic National Convention, which is currently scheduled to take place from August 17, 2020, to August 20, 2020; and

Whereas, Historical data from previous host cities indicates that the Convention was expected to attract approximately 50,000 visitors to the city, including delegates, media, and interested and patriotic persons; and

Whereas, The COVID-19 pandemic continues to be an imminent public health threat that disrupts to the ability of Milwaukee to safely host a mass gathering, even while observing recommended mitigation techniques such as social distancing, wearing personal protection equipment, and the routine cleaning of hands and frequently-touched surfaces; and

Whereas, Both the size and significance of the Convention and the continued unknown public health threat posed by COVID-19 create unique challenges for the City of Milwaukee that require additional regulations to assist in promoting and protecting the general health, safety, and welfare of Milwaukee residents and visitors during the Convention; and

Whereas, The Democratic National Convention Committee announced on June 24, 2020, that the presidential nominating convention will be modified to protect the public health and safety from the COVID-19 pandemic by significantly reducing the number of state delegates and convention invitees, shifting the convention to the Wisconsin Center from the Fiserv Forum, and cancelling auxiliary social events; and

Whereas, Persons and groups have a First Amendment right to organize and participate in peaceful assemblies and parades on sidewalks and rights-of-way and in the parks within the city, and to engage in peaceful assemblies and parades near the Convention so they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons, and property; and

Whereas, It is expected that crowds of interested persons will stand or walk upon the streets to protest or demonstrate in the security footprint to accommodate necessary social distancing to prevent the transmission of COVID-19 in crowds of large sizes, but that law enforcement may need to order persons to remove themselves from the streets to allow for unimpeded vehicular traffic; and

Whereas, The City of Milwaukee recognizes the compelling need to facilitate safe and orderly movement of vehicular and pedestrian traffic during the Convention to accommodate convention-related activities, emergency services, and interests of persons not participating in the assemblies and parades to use the sidewalks and rights-of-way to travel to their intended destinations and use the parks within the city for recreational purposes; and

Whereas, The following regulations, including, but not limited to, time, place, and manner restrictions promulgated by the Commissioner of Public Works and the Chief of Police, or their designees, will promote and protect the general safety and welfare of Milwaukee residents and visitors during the Convention while also allowing persons and organizations to exercise their First Amendment rights to peacefully assemble and parade; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

1. General Provisions. a. Incorporation. The recitals set forth above are hereby incorporated as if fully set forth herein.

b. Purpose. This extraordinary event ordinance is intended to provide guidance for the issuance of permits for and use of city streets and public property during the 2020 Democratic National Convention, to both ensure the efficient processing of all conforming permit applications, to protect the public interest, health and safety, and to promote and protect the First Amendment rights of all persons to peacefully assemble and speak.

c. General Requirement. Permits for the use of public streets and public property during the 2020 Democratic National Convention inside the security footprint, as described in the city of Milwaukee special event permit for the 2020 Democratic

National Convention, may be granted only in accordance with this extraordinary event ordinance.

d. **Effective Date.** The commissioner of public works is immediately authorized to enter into any agreements with Milwaukee county parks department necessary to secure control of Pere Marquette, Zeidler Union and Red Arrow parks, and to promulgate the process to permit use of the streets and county parks within the security footprint for the official parade route and the use of the speaker's platform. All other regulations shall go into effect at 12:01 a.m. central daylight time on Saturday, August 15, 2020 and terminate at 12:01 a.m. central daylight time on Saturday, August 22, 2020. In the event that the 2020 Democratic National Convention is delayed, the effectiveness of this extraordinary event ordinance shall automatically extend to 12:01 a.m. central daylight time two calendar days after the conclusion of the Convention.

e. **Severability.** In the event that any provision of this ordinance is determined to violate state or federal law, the remainder of the provisions shall be interpreted to be in compliance with such law and shall remain in full force and effect.

f. **Penalties.** Any person violating any provision of this ordinance shall upon conviction forfeit not more than \$500 or, upon default of payment thereof, be imprisoned as provided by law.

2. Definitions. As used in this section:

a. "Camping" means to set up or to remain on public grounds for the purpose of establishing or maintaining a temporary place to live or to shelter or sleep between the hours of 12:00 a.m. and 6:00 a.m.

b. "Chief" means the chief of police or the chief's designee.

c. "City" means the city of Milwaukee, Wisconsin.

d. "Commissioner" means the commissioner of public works or the commissioner's designee.

e. "Convention" means the 2020 Presidential Nomination Convention of the Democratic National Party scheduled to be held on August 17, 2020 through August 20, 2020.

f. "Convention period" means the time period commencing at 12:01 a.m. central daylight time on Saturday, August 15, 2020 and extending until 12:01 a.m. central daylight time on Saturday, August 22, 2020.

g. “Credentialed zone” means the area in the security footprint to which access is restricted by the United States Secret Service and the Milwaukee police department to authorized and credentialed persons consistent with the National Special Security Event designation pursuant to 18 U.S.C. §3056(e)(1).

h. “Crosswalk” means either of the following, but not any location where local authorities have placed signs indicating that no crossing is permitted:

h-1. That part of a roadway at intersections ordinarily included with the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway.

h-2. Any portion of a roadway, at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface.

i. “Official parade route” means a route within the security footprint as close as reasonably practicable to sight and sound distance from the entrance of the convention facilities as determined by the commissioner in consultation with the chief of police and the United States Secret Service. The commissioner may select alternative routes as necessary to accommodate crowds and social distancing, and to ensure public safety and free movement of pedestrian and vehicular traffic.

j. “Official speaker’s platform” means the speakers area designated by the city in the covered platforms in either or both Pere Marquette and Zeidler Union Square parks or in an alternative location designated by the commissioner in the event one or both of the covered platforms are unavailable.

k. “Parade” means any formation, march, or procession of any kind traveling in unison for a common purpose upon the streets, excluding sidewalks within the city that interferes with the normal flow or regulation of vehicular or pedestrian traffic upon the streets within the city.

L. “Pedestrian” means any natural person afoot.

m. “Person” means any natural person, firm, co-partnership, association, or corporation.

n. “Public grounds” means property under the city’s control in the security footprint to which the general public has access, including all public lands, county parks and any

paved areas on such property, but excluding streets, public buildings, and sidewalks adjoining streets.

o. “Security footprint” means the area within the boundaries set forth on the city of Milwaukee special event permit for the 2020 Democratic National Convention.

p. “Severe weather” means the forecasting or occurrence of weather phenomena affecting the city of Milwaukee that requires the National Weather Service to issue a severe weather watch or warning for weather phenomena including, but not limited to, severe thunderstorms, tornados and floods.

q. “Sidewalk” means the portion of a street adjacent to the curb lines or the lateral lines of a roadway and the adjacent property lines, and intended for the use of pedestrians.

r. “Sound amplification equipment” means any system or piece of equipment used for the production of amplified sound, including personal carried megaphones, bullhorns, and portable battery-operated sound amplification devices.

s. “Street” means any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof, excluding sidewalks.

t. “Vehicle” means every device in, upon, or by which any person or property may be transported or drawn upon a highway, except that “vehicle” does not include any motorized wheelchair, electric personal assistive mobility device, electronic scooter or bicycle.

3. Persons Prohibited in the Credentialed Zone. No person shall be inside the credentialed zone during the time periods designated by the United States Secret Service or the Milwaukee police department without authorization.

4. Official Parade Route Permit and Speaker’s Platform Registration. a. Requirement. No person shall interfere with, engage in or conduct a parade on the official parade route without first obtaining a permit issued as provided in this ordinance. No person shall use an official speaker’s platform without first registering to do so as provided in this ordinance.

b. Types of Permits in the Security Footprint. The following 2 types of permits may be obtained from the city inside the security footprint during the convention period:

b-1. Official Parade Route Permit. An official parade route permit is required for any parade on the official parade route during the convention period.

b-2. Official Speaker's Platform Permit. An official speaker's platform permit is required to use an official speaker's platform in the security footprint during the convention period.

c. Time Restrictions Applicable to Official Parade Route Permits. The following time restrictions apply to official parade route permits:

c-1. An official parade route permit may be obtained for Monday, August 17, 2020 through Thursday, August 20, 2020 from 10:00 a.m. to 8:00 p.m., although the commissioner is authorized to not issue permits during times of peak convention-related traffic in consultation with the United States Secret Service and the Milwaukee police department.

c-2. Each official parade route permit shall cover a one-hour time period beginning on the hour. The final parade each day shall clear the entire parade route and be dispersed by 9:00 p.m. each day. Only a single permit shall be issued for each one-hour period within the designated time period in subd. 1.

c-3. Groups shall gather in the designated staging area as marked on the map for the official parade route one-half hour before the parade's start time as noted on the official parade route permit. Official parade route staging shall occur at the location designated by the commissioner.

d. Transferability. No permit issued under this ordinance shall be transferrable.

5. Application and Registration Filing. a. General. A person seeking an official parade route permit within the security footprint shall file an application with the department of public works on the forms and in the manner provided. Any person or group seeking to use the official speaker's platform shall register with the department of public works on the forms and in the manner provided.

b. Filing Periods. The city will accept an application for an official parade route or official speaker's platform permit at any time up until the convention period. It is anticipated, however, that there may be a large volume of requests for the available dates and times, and multiple requests may be received for the use of the same space at the same time. For this reason, all applicants are encouraged to file applications for permits by 4:00 p.m. central daylight time on August 1, 2020. A separate application is required for each day, time slot, and event for which a permit is requested. Applications shall be considered on a

first-come, first-served basis for one half of the available time slots for the official speaker's platform and official parade route. If a requested time slot has already been reserved, the applicant shall choose from among the alternative time slots provided by the commissioner. Once one-half of the time slots are reserved, the remainder of time slots shall be made available for application between 12:00 p.m. and 4:00 p.m. the day prior to the available time slot during the convention period. The issuance of a permit shall be made by lottery as soon as practicable after 4:00 p.m. the day prior to the reservation. Any available permits not reserved during the convention period shall be available on a first-come, first-served basis by 8:00 a.m. each day.

c. Parade Permit Application Contents. The application for an official parade route permit shall contain the following information:

c-1. The name, address, daytime telephone number, and email, if available, of the applicant.

c-2. The name, address, and telephone number of the headquarters of the organization for which the parade is to be conducted.

c-3. The name and telephone number of the on-site coordinator or person in charge of the parade, if different from the applicant.

c-4. The approximate number of persons who will constitute the parade.

c-5. The name and contact information for any private security service to be utilized by the organizer, if applicable.

d. Application Review; Parade Permit. An application for an official parade route permit shall be reviewed by the department of public works and approved by the commissioner before a permit is issued. In determining whether to issue a permit, the commissioner shall consider the following factors:

d-1. Whether the information contained in the permit application is found to be false, misleading, or incomplete in any material detail.

d-2. Whether the applicant, the organization, or persons represented by the applicant or organization have previously reserved a different official parade permit or have engaged in violent or destructive conduct in violation of any provisions of the Milwaukee code of ordinances or any state or federal laws in connection with a previous parade or other public assembly in the city.

e. Official Speaker's Platform Registration Contents. The registration for use of the official speaker's platform shall contain the name, address, mobile phone number, and email, if available, of the registrant.

f. Permit or Registration Fee. There shall be no fee charged for an official parade route permit or for the use of the official speaker's platform in the security footprint during the convention period.

6. Official Parade Route Regulations. The following regulations shall apply to persons while participating in a parade at the official parade route:

a. Permit holders shall be present during their assigned time slots.

b. Permit holders shall show proof of permit and photo identification at the time of check-in.

c. Parade participants shall be fully assembled by the assigned step-off time. Failure to step off within 10 minutes of an assigned start time may result in forfeiture of the permit.

d. No vehicle may be used in a parade.

e. Parade participants shall have 50 minutes to complete their procession to the end of the official parade route.

f. Upon completion of the procession or at the end of the designated time slot for the parade, whichever is sooner, the parade participants shall clear the official parade route.

g. Sound amplification equipment limited to 75 decibels or less may be used by parade participants.

7. Official Speaker's Platform Regulations. The following regulations shall apply to persons while using the official speaker's platform:

a. Persons may register to use the official speaker's platform in 15-minute increments from Monday, August 17, 2020, through Thursday, August, 2020, between 10:00 a.m. and 9:00 p.m. The final use of the official speaker's platform shall conclude at 9:00 p.m. each day.

b. Fifteen-minute time slots for use of the official speaker's platform shall be available for reservation beginning after passage of this ordinance on a first-come, first-served basis for one half of the 15-minute time slot increments. The remainder shall be made available on a first-come, first-served daily basis during the convention period.

c. Use of the official speaker's platform shall be limited to 15-minute increments. Registered persons shall check in no later than 15 minutes prior to their assigned time.

d. All microphones and sound amplification equipment used at the official speaker's platform shall be provided by the city. No speaker may use his or her own microphone or sound amplification equipment.

8. Permit Revocation. The commissioner may revoke or suspend any permit granted under this ordinance because of any false statement made in the application for the permit or because of a violation of any provision of the ordinance.

9. Suspension or Termination of Permit. Any permit issued under this ordinance or use of the official speaker's platform may be suspended or terminated effective immediately in the event of severe weather or a large-scale civil disturbance involving violence to persons or extensive property damage and at the request of the United States Secret Service or Milwaukee police department. The commissioner shall determine whether severe weather impacts the general welfare and safety of the community and shall make the final determination to terminate or suspend any permits. Notice of such termination or suspension shall be provided to the applicant, and a public notice shall be issued to the media.

10. Appeals. If an application for a permit is denied or revoked, the applicant or permittee shall be notified of the denial or revocation and the reason or reasons therefore in writing by email, if possible, or by telephone and regular mail to the address on the application. An applicant or permittee shall have the right to appeal the denial or revocation of a permit to the commissioner within 3 business days of receipt of the notice of denial or revocation. The commissioner shall hold a hearing on the denial or revocation promptly upon receipt of the notice of appeal. If the commissioner determines that a denied permit should be granted, the applicant shall be so notified in writing and shall be issued the permit. If the commissioner determines that a revoked permit should be reinstated, the permittee shall be so notified in writing and proceed as if the permit was not revoked. If the commissioner affirms the denial or revocation of the permit, the applicant or permittee shall be promptly notified of the decision and shall have the right to appeal the denial or revocation to the city's administrative review appeals board.

11. Permit Not Required; Streets Reserved for Vehicular Traffic; Exceptions. a. A person or group shall not be required to obtain a permit for a parade, demonstration or protest in the security footprint before conducting the event other than as required in this ordinance. Any demonstration, procession or march using the sidewalks and crosswalks may not prevent other pedestrian traffic from using the sidewalks and crosswalks, interfere with vehicular traffic on the streets, or interfere with the official parade route.

b. A person or group of pedestrians may stand, loiter or travel upon the streets in the security footprint only if their presence does not interfere with vehicular traffic, consistent with s. 101-1-2 of the code of ordinances, which adopts s. 346.29(2), Wis. Stats.

c. Law enforcement and public works officials may request persons to leave the streets and remain upon sidewalks to allow vehicular traffic associated with convention invitees and guests, delegate buses, or emergency, governmental, utility, residential or commercial vehicles to proceed unimpeded through the security footprint.

12. Other Parades and Special Events. Because of the potential for large crowds observing social distancing and for convention-related vehicular traffic, including buses and other livery, anticipated in the security footprint during the convention period, the city cannot accommodate parades or other special events on city streets inside the security footprint, other than those permitted for the official parade route and official speaker's platform. Groups seeking to conduct a parade or other special event on a city street outside of the security footprint during the convention period shall submit an application to the department of public works pursuant to s. 105-55.5, Milwaukee code of ordinances.

..LRB
APPROVED AS TO FORM

Legislative Reference Bureau
Date: _____

..Attorney
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney
Date: _____

..Requestor
City Attorney
..Drafter
LRB176099-3
Jeff Osterman
07/06/2020