

## STAFF REPORT

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**Date:** October 11, 2017

**To:** Mayor and City Council

**Thru:** Sabra Newby, City Manager

**Subject:** **G.1. Staff Report (For Possible Action): Ordinance Adoption - Bill No. 7008 Ordinance to amend Title 5 of the Reno Municipal Code entitled “Privileged Licenses, Permits and Franchises”, by amending Chapter 5.13 entitled “Special Events and Activities”; by amending Section 5.13.040 entitled “Exceptions to permit requirement” to exempt groups that are picketing, assembling and marching on City streets from special event permit requirements and clarifying that notification should be provided to the City to allow the City’s closure of streets; and by amending Section 5.13.090 entitled "Application for permit" to delete section (f), to remove the permit requirement for gatherings or marches on city streets, parks or other public property organized as expressive activity related to events occasioned by recently occurring news or affairs; together with other matters properly relating thereto.**

**From:** Alexis Hill, Arts, Culture and Events Manager

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**Summary:** This is a request to add sections and to amend Title 5 of the Reno Municipal Code (RMC) to create clear requirements for picketing, assembling, gathering and marching on City streets such that street closures are necessary to preserve public safety; together with other matters properly relating thereto.

**Previous Council Action:**

September 24, 2014 - Council adopted the proposed amendments RMC 5 and Title 8 to create free speech areas for First Amendment protected activities located inside or immediately adjacent to special event venues; to amend regulations for display stands and expressive merchandise sales on sidewalks; and to create reasonable time, place and manner restrictions for persons using a display stand or displaying expressive merchandise in parks, and other matters properly related thereto.

April 16, 2014 - Council adopted the proposed amendments to RMC Title 4, 5 and 8 to exempt sales of First Amendment protected expressive merchandise from business license and park permit requirements.

**Background:** Since 2015, the City of Reno has seen a large uptick in free speech marches. Currently, RMC Chapter 5.13 requires that any gathering or march organized as an expressive activity to obtain a special event permit and pay for City service costs incurred with street closures and park rentals. Most of the organizations who want to put on these types of events cannot pay for street closures and would otherwise keep their march to the sidewalk except for the size that they expect the event to be. The City of Reno did not require a permit for the Black Lives Matter group on July 15, 2016 because the event was projected to have over 100 attendees and streets needed to be closed for public safety. The City also did not require for a permit to be obtained for the Women’s March on January 21, 2017, the March for Science on April 22, 2017 or the Equity March on June 11, 2017 for the same reasons. Staff is bringing this revision to RMC Chapter 5.13 so that code is aligned with current staff practices. If staff did charge for any of the events above the fee would be more than \$4,500 for Reno Police, Public Works and Parks staff hired on overtime to staff the events and equipment. Please note that for most of these incidents staff were and are not pulled away from regular duty – they were hired for the specific activity on overtime.

**Discussion:** The proposed ordinance amendments create clear requirements for picketing, assembling, gathering and marching on City streets. The amended code would also encourage a notification form to be completed for City staff to review. The form is also attached to this packet for reference. The proposed ordinance amendments follow:

**Amendments to RMC Chapter 5.13, “Special Events”:** The proposed amendments revise Section 5.13.040(a)(7) entitled “Exceptions to permit requirement” to allow picketing, assembling, gathering and marching on City streets such that street closures are required to preserve public safety with written notification to the Arts, Culture and Events Manager. Section 5.13.090(f) is deleted so that these types of marches are not required to obtain a special event permit.

**Financial Implications:** There may be an increase in special event overtime and equipment costs and less reimbursement of those costs for Fiscal Year (FY)17/18. Overall costs in special events will be kept within the allocated budget amount.

**Legal Implications:** The First Amendment of the Constitution of the United States of America states that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

**Recommendation:** Staff recommends Council adoption of Ordinance No. \_\_\_\_\_.

**Proposed Motion:** I move to adopt Ordinance No. \_\_\_\_\_.

**Attachments:**

- City of Reno Free Speech Activity Notification Form (PDF)

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

**BILL NO.**

**ORDINANCE NO.**

**ORDINANCE TO AMEND TITLE 5 OF THE RENO MUNICIPAL CODE ENTITLED “PRIVILEGED LICENSES, PERMITS AND FRANCHISES”, BY AMENDING CHAPTER 5.13 ENTITLED “SPECIAL EVENTS AND ACTIVITIES”; BY AMENDING SECTION 5.13.040 ENTITLED “EXCEPTIONS TO PERMIT REQUIREMENT” TO EXEMPT GROUPS THAT ARE PICKETING, ASSEMBLING AND MARCHING ON CITY STREETS FROM SPECIAL EVENT PERMIT REQUIREMENTS AND CLARIFYING THAT NOTIFICATION SHOULD BE PROVIDED TO THE CITY TO ALLOW THE CITY'S CLOSURE OF STREETS; AND BY AMENDING SECTION 5.13.090 ENTITLED "APPLICATION FOR PERMIT" TO DELETE SECTION (F), TO REMOVE THE PERMIT REQUIREMENT FOR GATHERINGS OR MARCHES ON CITY STREETS, PARKS OR OTHER PUBLIC PROPERTY ORGANIZED AS EXPRESSIVE ACTIVITY RELATED TO EVENTS OCCASIONED BY RECENTLY OCCURRING NEWS OR AFFAIRS; TOGETHER WITH OTHER MATTERS PROPERLY RELATED THERETO.**

SPONSORED BY: THE ARTS, CULTURE AND EVENTS DEPARTMENT OF THE CITY OF RENO.

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1. Title 5, Chapter 5.13, is hereby amended, in accordance to Nevada Revised Statutes, add to Section 5.13.040 “Exceptions to Permit Requirement”, to read as follows:

**Sec. 5.13.040. - Exceptions to permit requirement.**

- (a) The following activities are exempt from the permit requirement set forth in section 5.13.030:
- (1) Funeral processions by a licensed mortuary.
  - (2) Activities regularly conducted by the City of Reno acting within the scope of its authority.
  - (3) Picketing, assembling and marching on sidewalks, provided that traffic and pedestrian laws are obeyed and the activity is conducted in a manner which leaves the sidewalk free for reasonable use by non-participants.
  - (4) Gatherings in a park of 75 or fewer persons organized for expressive activities that do not involve the use of vehicles, animals, vendors, structures (other than a maximum of four tables no larger than three feet by seven feet to facilitate

expressive activity), fireworks, pyrotechnics or equipment (other than sound equipment to facilitate expressive activity), provided that the chief of police is notified at least 24 hours in advance of the commencement of the gathering.

- (5) Motion picture and television and commercial still photography production activities. A film permit for these activities is required in accordance with Reno Municipal Code Chapter 5.20.
- (6) Private parties and non-commercial sporting events approved by the parks, recreation and community services department at city parks and recreation facilities including but not limited to picnics, weddings, bar mitzvahs, family reunions, graduations, baptisms and local adult/youth sports leagues.
- (7) Picketing, assembling, and marching on city streets such that street closures are required to preserve public safety. Event organizers of groups who want to picket, assemble or march on city streets should provide written notification to the Arts, Culture, and Events Manager, or designee, of the event so that street closures can be coordinated by the city.

a. Notwithstanding any other provision of this chapter, any gathering or march organized as an expressive activity related to events occasioned by news or affairs coming into public knowledge within five days of such gathering or march may file the notification no later than two business days before the gathering or march. For news or affairs coming into public knowledge within 72 hours of the expressive event, the two business day requirement shall be shortened to one business day. If the notification cannot be timely submitted, the event organizer may conduct a gathering on the grounds of the City Plaza, if not otherwise being used by or with the permission of the city for another event. If the notification cannot be timely submitted and the City Plaza is not available, the expressive gathering may take place in a city park which is not being used for an organized recreational purpose or pursuant to a permit for another event.

(b) Although not required to get a special event or special activity permit, an event organizer of an activity pursuant to subsection (a)(1)—~~[(6)]~~ (7) is required to comply with general regulations governing public safety and health.

SECTION 2. Title 5, Chapter 5.13, Section 5.13.090 of the Reno Municipal Code, is hereby amended to read as follows:

**Sec. 5.13.090. - Application for permit.**

**(a) APPLICATION SUBMISSION REQUIREMENTS.**

- (1) An even organizer seeking a special event permit shall submit a completed application to the City not less than 90 calendar days, nor more than 12 months, prior to the date requested for the commencement of setup for the special event. An application received less than 90 days before the date requested for the commencement of setup for the special event shall be denied if the application cannot reasonably be processed due to the delay, and if approved, is subject to a

- late fee in an amount equal to ten percent of the amount of the total estimated city service fee pursuant to section 5.13.050(b) or \$100.00, whichever is greater.
- (2) An event organizer seeking a special activity permit that requires a privileged license requiring a background check under Reno Municipal Code Title 5, such as an alcohol license, shall submit an application to the city not less than 90 days, nor more than 12 months, prior to the time indicated for the commencement of the special activity. An application received more than 12 months or less than 90 calendar days prior to the time indicated for the commencement of the special activity shall be denied.
  - (3) An event organizer seeking a special activity permit that requires a privileged license under Reno Municipal Code Title 5, such as an alcohol license, and is or will be using the services of a business currently licensed by the city for such privileged license shall submit an application to the city not less than 30 calendar days, nor more than 12 months, prior to the time indicated for the commencement of the special activity. An application received more than 12 months in advance of the special activity shall be denied. On the first occurrence, an application received less 30 calendar days but more than five calendar days before the special activity shall be denied if the application cannot reasonably be processed due to the delay, and if approved, is subject to a late fee in the amount equal to ten percent of the total applicable fees pursuant to section 5.13.050(a) and (c). An application received less than five calendar days before the special activity shall be denied if the application cannot reasonably be processed due to the delay, and if approved, is subject to a late fee in at the amount equal to 15 percent of the total applicable fees pursuant to section 5.13.050(a) and (c).
  - (4) An event organizer seeking a special activity permit which does not require another privilege license as part of the activity shall submit an application to the not less than 15 calendar days, nor more than 12 months, prior to the time indicated for the commencement of the special activity. An application received more than 12 months in advance of the special activity shall be denied. On the first occurrence, an application received less than 15 calendar days but more than five calendar days before the special activity shall be denied if the application cannot reasonably be processed due to the delay, and if approved, is subject to a late fee in the amount equal to the ten percent of the total applicable fees pursuant to section 5.13.050 (a) and (c). An application received less than five calendar days before the special activity shall be denied if the application cannot reasonably be processed due to the delay, and if approved, is subject to a late fee in the amount equal to 15 percent of the total applicable fees pursuant to section 5.13.050 (a) and (c). All subsequent applications submitted after the deadlines listed above shall be denied if the application cannot reasonably be processed due to the delay, and if approved, and subject to a late fee in an amount equal to 50 percent of the applicable fees pursuant to section 5.13.050 (a) and (c).
  - (5) Any late fee assessed pursuant to subsection (a)(1) to (4), above, must be paid in full in cash, check, credit card, cashier's check, or certified check at the time the permit fee is due and payable, and cannot be waived, deducted, or subtracted from any amount pledged by the city to provide services, equipment or personnel in direct support of the special event or special activity.

- (6) Any application received less than 15 days before a special event or three business days before a special activity shall be denied, unless the city manager finds that the applicant's delay in submission was due to circumstances beyond its reasonable control or not reasonably foreseeable.

**(b) APPLICATION REQUIREMENTS.**

An event organizer seeking a special event permit or a special activity permit shall submit an application to the city within the time limits established in subsection (a). The application shall:

- (1) Be a written statement upon forms provided by the city;
  - (2) Require disclosure of all reasonable information that is necessary to the fair and efficient administration of this chapter;
  - (3) Be accompanied by the full amount of the application, license and inspection fees chargeable for such permit; and,
  - (4) Be signed by the event organizer, if a natural person, in the case of an association or partnership, by a member or partner with authority to bind the association or partnership; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which must be attached the written evidence of the authority.
- (c) In considering an application and any conditions to be imposed thereon, the city manager shall consult with the chief of police and fire chief and such city personnel as he or she deems appropriate, and may convene appropriate city representatives for this purpose as an advisory events committee.
- (d) The city manager shall, in consultation with the events committee, determine whether the arrangements described in the application:
- (1) Reflect a realistic estimate of the expected size of the crowd or number of participants at the event;
  - (2) Provide adequate security and crowd control measures to control potentially disruptive individuals or situations;
  - (3) Reflect that the method to be used in preparing, selling or distributing food and/or alcohol minimizes or prevents the distribution of glass, metal, or similar containers that could be used as weapons;
  - (4) Provide adequate measures for the proper sanitation, collection and removal of rubbish and trash during the event and at the conclusion of the event; and,
  - (5) Provide adequate insurance or other form of indemnification that will protect the city from potential claims arising from the event.
- (e) If the city manager, in consultation with the events committee, is satisfied that the arrangements made by the event organizer as set forth in the application provide a reasonable assurance that the special event or special activity will be properly supervised and managed so as to ensure reasonable levels of health, safety, property protection and welfare, he or she shall issue the permit. In so doing, he or she shall require specific additional measures or commitments from the event organizer as shall be reasonable and necessary to address the specific issues mentioned in subsection (d).
- [ (f) ~~Notwithstanding any other provision of this chapter, any gathering or march organized as an expressive activity related to events occasioned by news or affairs coming into public knowledge within five days of such gathering or march may file the application specified in section 5.13.090(b) no later than two business days before the gathering or march. For~~

~~news or affairs coming into public knowledge within 72 hours of the expressive event the two business day requirement shall be shortened to one business day. If the permit cannot be timely submitted granted, the organizer may conduct a gathering on the grounds of the City Plaza, if not otherwise being used by or with the permission of the city for another event. If the permit cannot be timely granted and the City Plaza is not available, the expressive gathering may take place in a city park which is not being used for an organized recreational purpose or pursuant to a permit for another event.]~~

SECTION 3. The Reno City Council hereby finds that this ordinance is not subject to the requirements of Chapter 237 of NRS, Business Impact Statement process.

SECTION 4. This Ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

SECTION 5. The City Clerk of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno Gazette-Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote of the Council:

AYES: \_\_\_\_\_  
NAYS: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
HILLARY SCHIEVE  
MAYOR OF THE CITY OF RENO

ATTEST:

\_\_\_\_\_  
ASHLEY TURNEY  
CITY CLERK AND CLERK  
OF THE CITY COUNCIL OF THE  
CITY OF RENO, NEVADA

EFFECTIVE DATE: